

OBSERVATIONS
ON THE
DOUGLAS CAUSE
IN GENERAL;

But chiefly with a view to the CHARACTERS of the Parties principally concerned on the part of the DEFENDANT.

IN A
LETTER
TO A
NOBLE LORD,

From a Gentleman in ****.

WITH
The ESSENCE of the DOUGLAS Cause.

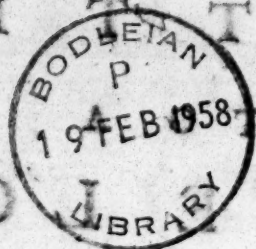
*Quid dulcius hominum generi a natura datum est,
quam sui cuique liberi?—*

PRINTED IN THE YEAR MDCCLXIX.

OBSERVATIONS ON THE DOUGLAS CAUSE IN GENERAL:

But chiefly with a view to the CHARACTER
TENDS OF THE PARTIES PRINCIPALLY CON-
CERNED ON THE PART OF THE DEFENDANTS.

IN A
LETTER
TO
NORFOLK



FROM A GENTLEMAN IN ***.

WITH

THE ESSENCE OF THE DOUGLAS CAUSE.

By JAMES HENNING, Esq. a native of the
County of Kent.

PRINTED IN THE YEAR MDCCCLXII.



A

LETTER, &c.

MY LORD,

IN obedience to your Lordship's commands, I have, with all the attention in my power, read over the proof on both sides of the Douglas cause: and as you did me the honour to desire it, I now give your Lordship the trouble of a letter on that very interesting subject.

I WILL acknowledge, my Lord, that, during the dependence of this great cause, I have found my mind very differently affected in regard to the parties concerned: for though I have been for many years well acquainted with the character of Lady Jane Douglas, and was ever willing to put the best construction on her conduct; yet I was frequently stumbled with the bold and confident assertions of the plaintiffs, and durst not cherish a partiality in favour of any character, against which men of birth, fortune, and account in the world had, in the most public and solemn manner, engaged to produce the most unexceptionable and convincing evidence. That evidence is now before the public; and to me,

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my Lord, it appears equally exceptionable and inconclusive.

I WAS fully confirmed in this opinion by reading a very spirited pamphlet, *The Essence of the Douglas Cause*, just after I had gone through the tedious proof; and as your Lordship may have seen that pamphlet, I shall but just observe, that, in my humble opinion, it does equal honour to the author's head and his heart; he hath entered deeply into the cause, and writes of men and things with a freedom and generous warmth, worthy the great cause he so nobly pleads; worthy the country in which it was published.

IF ever a cause deserved the most serious attention of judges, to that favour the Douglas cause hath a just claim: a cause, my Lord, in its nature, and in its consequences, of the last importance. It is the cause, not of an individual, but of all mankind; nor of mankind only, but of that part of our species which hath a peculiar title to our candour and humanity: it is the general cause of orphans and minors, who, as they can do nothing for themselves, must absolutely depend on the protection of the laws. In this light, my Lord, the world must see the Douglas cause, and in this light I am sure your Lordship does see it.

YOUR Lordship knows, that several years ago the defendant was in a very solemn manner served heir to his uncle the late Duke of Douglas, at which time the evidence of his propinquity appeared so strong, that it overpowered all objections; that, in consequence of this service, the
court

court of session put him in possession of the family-estate. That soon thereafter claims to the succession were entered on the part of the Duke of Hamilton, as heir-male of the family; and of the Earl of Selkirk, in virtue of an ancient settlement of the estate. Had the noble claimants prevailed in these suits, the defendant might, without quarrel, have peaceably enjoyed the honour of being esteemed the son of Lady Jane Douglas; but as both these claims were dismissed, the plaintiffs went roundly to work, and what they could not effectuate in one way, they endeavoured to accomplish by another.

THEY attempted to prove, that the defendant was not the son of Lady Jane Douglas and Sir John Stewart, but an impostor bought or stole by them in Paris, with the nefarious view of supplanting the legal heirs of the Duke of Douglas. A heavy charge, my Lord; but how is it supported?—By the boldest, the most unprecedented attacks upon the character of the defendant's parents;—one of them long before dead, the other just on the verge of life when this suit commenced, and since dead also;—by an attack upon the characters of their domestics at the time of the defendant's birth;—by an attack upon the whole evidence upon which he was served heir to his uncle;—and by adducing a minute and tedious proof of a vast variety of very remote facts and circumstances, which might, with almost equal propriety, be applied to set aside the right of any man living.

I WILL so far join issue with the plaintiffs, as to acknowledge that the characters of Lady Jane

and Sir John are of great weight in the cause; but before I enter upon a particular investigation of their characters, I beg leave to observe, that there is no human character without its flaws: perfection is not the lot of man in his present state; and therefore we ought not, in reason or common equity, to conclude harshly of any person for foibles or errors in his conduct, in a greater or lesser degree common to all mankind. Much less, my Lord, are we to confound the ideas of honesty and common prudence, and because a man is deficient in the last, therefore conclude him equally void of the first.

WITH regard to Sir John Stewart's character, the minutest actions of a long life have been anxiously pried into; the most trifling stories have been greedily picked up; a thousand impertinent questions have been asked; and what was said, or seems to have been said of him, by the Duke of Douglas, evidently in a passion, and under the influence of the strongest prejudices, has been marked with triumph.—What has been the result of this inquisition? Why, that Sir John Stewart was a warm-tempered, generous, good-natured man; very inattentive to his own affairs; enjoying the present moment, and, in an uncommon degree, improvident of the future. That this was his real character, I appeal to the conscience of every one who knew him;—I appeal to the conviction of every one who hath attended to the proof in this great cause; and I appeal to impartial posterity, being well assured, that in this true light after ages will see him.—Let your Lordship judge then, let the world judge, how improper a man of this character was for planning

planning and carrying into execution the complicated villany with which the plaintiffs have been pleased to charge this unfortunate gentleman.

THE four letters from Pierre la Marre, said to have been forged by Sir John Stewart, and some trivial mistakes he fell into, when examined before the court of session, are the chief artillery which the plaintiffs have played off against his character. With regard to these letters, my Lord, they may be forgeries, or they may be true, though incorrect, copies of real genuine letters which Sir John had received; I am sure there is nothing in proof sufficient to establish the certainty of the former, nothing has been adduced of weight to set aside the possibility of the latter.

HAD a position which the plaintiffs long and strenuously maintained, turned out to be true, that this same Pierre la Marre was only a creature of Sir John's brain, but never really existed; and had Sir John's assertion stood unsupported by any other person or circumstance, I must acknowledge that I should have looked upon this as a very suspicious article in the charge. But, my Lord, this is by no means the case: it is now established, by incontestable evidence, that a person of that name really existed, and, in the year of the defendant's birth, practised surgery and midwifery in Paris.

HAD Sir John been conscious that Lady Jane was not delivered of children, durst he have fixed upon a real practitioner as the pretended accoucheur? could he indeed divine that this accoucheur would die before his children's birth should

should be called in question, and therefore be unable to contradict the assertion? If we ascribe this to mere chance, what may we not account for by the same sage way of reasoning?

I DON'T say, my Lord, that the bare existence of this person, added to Sir John's naming him as the accoucheur, would have afforded a full and satisfactory proof that he really acted in that character, had Sir John been unsupported in this by any other person or circumstance. But neither is this the case; Sir John's account of the matter is confirmed by the positive testimony of Mrs Hewit, who was present at the birth, and by a variety of other circumstances, which must put the matter beyond a doubt with every unprejudiced person.

ONE would have thought, that the discovery of La Marre would have put the plaintiffs a little out of countenance, after they had so long denied his existence; but *they had put their hand to the plough, and must not look back*. Driven from their strong-hold, the non-existence of any man-midwife of that name, they lay hold of every circumstance that may raise a doubt of the La Marre now discovered his having been the La Marre mentioned by Sir John Stewart—he was too little known, of too low a rank to bring Lady Jane Douglas to bed—he cannot be the person described by Sir John, because there is either a mistake or an impropriety in naming the province of which he was a native—he cannot be the person mentioned by Sir John, because he has mistaken the year in which he first became acquainted with

with him.—Are not such objections unworthy a cause so serious and important?

WOULD Sir John Stewart, say the plaintiffs, after having gone to Paris, that Lady Jane might have the best assistance, have trusted her delivery to a low practitioner, to a man scarce known? But if it has since appeared, that La Marre was not much known or employed in Paris at that time, yet who told the plaintiffs, that Sir John Stewart knew as much when he employed him for Lady Jane? Was it not natural for him to employ the only one of the business he seems to have known? And did he not act prudently, when he desired La Marre to secure further assistance, in case it should be found necessary? Does it follow, because La Marre was not dignified with titles, and employed by half the town, that therefore he was ignorant and unskilful in his profession? Put the case, my Lord, that Sir John had really known La Marre to be as mean a fellow as the plaintiffs shall be pleased to suppose him, and, notwithstanding that knowledge, had employed him in preference to others whom he knew to be better qualified; what would this amount to? Only that he had acted imprudently, and with less consideration of the hazard than many other men would have done in the like circumstances. But, my Lord, it is very clear from the testimony of his brethren, that La Marre was neither unskilful in his business, nor that mean creature the plaintiffs would have us believe him to have been.

IF then, my Lord, Pierre La Marre delivered Lady Jane Douglas, it is highly probable, that he
would

would upon some occasions correspond with her husband after he left Paris, especially as one of the children was left there under his inspection; nor can I see the shadow of a reason for disbelieving Sir John, when he says, that he received many letters from him; even though he had been unsupported in this by the testimony of Isabel Walker, who depones, that she saw him receive a letter from La Marre when he lived in London. A very strong circumstance to this effect appears from Lady Jane's pocket-book, where it is marked with her own hand, that upon such a day Mr Stewart had wrote to Mr such a one, and to Mr La Marre. An answer from the first-named person has been recovered, acknowledging the receipt of Sir John's letter, of that date; which convincingly shows, that the memorandum was not put down at random, but relates to real facts.

I must observe to your Lordship, that these letters never were said to be originals. Sir John Stewart, in his examination before the court of session, declared they were only copies made from the originals by one Clinton, with whom he had been acquainted at London.—He even wrote to Mr Clinton, desiring him to recollect whether he had copied them for him.—But though Clinton gave no answer to Sir John's letter, it appears that he was by no means clear that he had not copied these letters; for he wrote to a gentleman at Edinburgh, with whom he had formerly lived, desiring him to call for a sight of the copies, and advise him if he thought them of his writing. Clinton was afterward examined upon an act and commission from the court of session; and though he denied these letters to be of his writing, he acknowledged,

acknowledged, that he had copied some papers for Sir John when he lived within the rules of the King's-bench; that he then knew very little of the French language; and though he did not recollect the tenor, contents, or language in which the papers he had so copied were wrote, yet he had some faint remembrance *that he had seen a paper signed La Marre.*

I KNOW, my Lord, that I have been tedious in regard to these letters; and have only to plead in excuse, that I look upon the smallest light with respect to them to be of great importance to Sir John Stewart's character. It is certainly too strong a conclusion, that because he could not name the person who copied them, because he named a wrong person, or because that person did not remember, or would not acknowledge the copying of them, that therefore nobody had copied them, but Sir John must have forged them.

WITH regard to the mistakes Sir John fell into in his examination, it is certainly nothing but what might have been expected, when an old man of 74 years of age, then under a fit of sickness, and unexpectedly called upon; was to be examined, and cross-examined, in regard to facts and circumstances which had happened twelve or thirteen years before. It is a strange conclusion the plaintiffs would draw here, because Sir John mistook some circumstances, and could not, at so great a distance of time, satisfactorily account for others, *therefore all he swore was false.*

IN all other respects the character of Sir John Stewart stands unimpeached; and how far the

doubts that may remain with regard to those letters, and the most unavoidable mistakes he fell into, on his examination before the court of session, will counterbalance the uniform acknowledgment of the defendant as his son, and render his solemn oath and dying declaration ineffectual, is not my province to determine.

THE declaration which I have just mentioned, and the large provision which Sir John Stewart, on his succeeding to the estate of Grandtully, settled upon the defendant, are facts which, in the strongest and most convincing manner, point him out as the real son of Sir John and Lady Jane Douglas. Could a beggar-boy, who had involved Sir John's family in so much distress, have taken so fast a hold of his heart, that for his sake he would straiten and embarrass his real, his acknowledged children? Could he value this impostor above his own soul, and voluntarily renounce his hopes of happiness, rather than this foreign being should not be thought his son? Could he have gone so solemnly, so deliberately to work in this horrid impiety, as to have called upon a civil magistrate, and two ministers of the gospel, to hear this declaration read, and to see him, as it were, sign and seal his own damnation! No, my Lord, in both these respects Sir John Stewart acted in great consistency with the paternal regard which he had upon every occasion shown for the defendant.

THOSE, my Lord, who believe, or affect to believe, that religion is a cheat, and have the courage to laugh at a future state of rewards and punishments, may perhaps think there is very little

little in all this: but those who are less hardy, and who are not ashamed to own a respect for religion, and a reverence for Almighty God, will think quite otherwise of the matter. They can scarce conceive it possible for the most impious, the most abandoned, the most hardened villain that ever existed, to have acted in this manner, with death upon his lip, and when no interest of his own could possibly be served by it; much less will they believe it of a man, who through the vicissitudes of a long life had supported a fair character, and whom his most inveterate enemies have never once charged with an irreligious turn of mind.

SIR John's parting with his man-servant at Liege, was strongly urged, in the condescendence of facts at first given in by the plaintiffs, as a very suspicious circumstance; though it is now in proof, that the servant was a deserter from the French service, and therefore durst not enter France. This was discovered by mere accident; for, as it had totally escaped Sir John's memory, he could give no account of the reason why he had parted with his servant.

HIS leaving Lady Jane's maids at Rheims, is still insisted upon as a clear indication of his guilt. The reason given by him and Mrs Hewit for leaving the maids, was want of money to carry them to Paris: but this the plaintiffs treat with the utmost contempt. The maids, say the plaintiffs, could have been carried to Paris for the trifling sum of twelve shillings.—Perhaps 10; but who told them that Sir John had even this small sum to spare for that purpose? Though

they might have been carried there for twelve shillings, yet a great deal more would have been wanted for lodging and boarding them.

BUT, my Lord, in order to show that want of money could not possibly be the reason; the plaintiffs tell us, that Sir John had a letter of credit empowering him to draw upon a banker at Paris, for the high-sounding sum of *nineteen hundred and seventy-nine livres*, — in British money, something more than eighty-six pounds! A mighty sum for a Lady of the first quality, her husband, a female companion, and two maids, to go into Paris with, even upon a less expensive occasion than that of a lying-in! But had Sir John really received that money while at Rheims, which, by the plaintiffs own account of the matter, he certainly did not; yet it is impossible to tell what pressing demands he might have had upon him at that time.

THE plaintiffs would have it believed, that the journey to Paris was the effect of a sudden resolution; and the concealing from Mr Mallifer the intention of that journey, has been strongly urged in proof of an intended fraud. But, my Lord, it is in proof, that several of Lady Jane's friends knew she was to lie in at Paris; and most certainly she was under no obligation of sending circular letters among all her acquaintance, announcing her intention so to do. Sir John had no occasion to mention at all his journey to Mr Mallifer, but that he wanted a recommendatory letter to the inn where the coach was to put up; a favour he had reason to expect, without entering upon the particulars of his intended journey.

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BUT he has been accused of giving that gentleman a false account of his intention in going to Paris, "to make purchases."—Here, my Lord, I must observe, that Sir John's family had lived above three weeks at Rheims; he had taken a house there, and intended to leave Lady Jane's maids: it is therefore extremely probable, that one reason why he did not mention the intention of his journey to Paris to Mr Mallifer, was to prevent the surprise which that gentleman might have naturally expressed, on hearing that the maids were to be left behind upon that occasion. If Sir John spoke only of going to Paris for a jaunt, or to purchase some trifles, the leaving the maids at Rheims could be no surprise to any body; perhaps too this would prevent the apparent necessity that Sir John would have been otherwise under of clearing accounts with his landlady and others at that place.

THERE is however a paragraph in Mr Mallifer's letter to Godefroy, which seems to show that Mr Mallifer knew more of the intention of Sir John and Lady Jane's journey to Paris at that time, 2d July 1748, than he could recollect when examined upon oath 17 years after; for he writes Godefroy, "I have directed them to your hotel, *to light there.* I do not know if it will be for *any time, for I believe that their intention is to have an apartment to themselves afterwards.*"

BUT, my Lord, whatever may be in all this, it is very evident, that Sir John and Lady Jane had resolved upon the utmost privacy and œconomy in regard to the lying-in at Paris; a precaution which the unfortunate situation of their affairs,
and

and the low state of their finances, made absolutely necessary. Their conduct upon that occasion may appear to some mean, and to others imprudent; but certainly had not the remotest appearance of fraud or bad design. Had their errand to Paris been to steal or purchase children, would they have gone to that place in the public stage-coach, and by their own proper names? would they have taken a recommendatory letter from a man of rank at Rheims to a noted innkeeper at Paris? would they, at a considerable expence, have brought their maids all the way from Aix-la-Chapelle to Rheims, and left them there, within two days journey of Paris, where the crime was to be committed, that they might, in the event of a detection, have been at hand to give a full account who the actors were, and from whence they had come? The bare assertion of such absurdities is enough to make prejudice blush.

At this distance of time, my Lord, it is impossible for the defendant to account for every thing in the conduct of his parents that may appear singular or suspicious; it is certainly not incumbent upon him. But your Lordship will give me leave to observe, that if many years after a crime is said to have been committed, one may be accused, and obliged to give a minute and circumstantiate account of his conduct at that period, not a man in ten thousand can be safe. Many accidents daily happen, trivial in their nature, and disregarded at the time, which afterwards, imperfectly remembered, and partially related, may afford ample matter for prejudice and ingenuity to work upon.

A SLIGHT quarrel, or a rash word spoken twenty years before, may give rise to a prosecution for murder ; the exertion of the benevolent principles may be imputed to the blackest motives ; and a man's humanity may destroy him.

To illustrate this, my Lord, I will suppose a case, and surely the plaintiffs will forgive me to suppose the worst that can be of Sir John Stewart. Put the case then, that Sir John Stewart's man-servant had left Liege the same day he parted with his master, gone to sea, and never after been heard of. That of the two maids left at Rheims, one had died of a purple fever, or an inflammation of the lungs, a few days after Sir John and Lady Jane set out for Paris ; and that the other at the same time had been seized with an uncommon disorder, attended with severe retchings, dejection of spirits, and a delirium, of which, in a few days more, she had also died. Suppose further, that the man-servant had been seen go out of the town in liquor, and in company with half a dozen of sailors, and that these sailors had been observed some days before sauntering about Sir John's house. Suppose it appeared, that the maids had been ailing for some time ; that Sir John had procured medicines for them, and anxiously recommended the use of those medicines.— Might not all this have very naturally happened without any fault on Sir John's part ? And yet how suspicious must these things have looked !—what a figure would all this have made in a *monitoire* ! how would the plaintiffs have triumphed ! how could the defendant have accounted for such a concatenation of unfortunate circumstances ?

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HE might have told them, that the man-servant might have been wheedled away, or have voluntarily gone to sea, without Sir John Stewart's knowing or having any hand in it.—He might have urged, that mere humanity had induced Sir John to purchase and recommend these medicines to the maids; and that, notwithstanding them, they had very probably died of natural disorders. Would these apologies have been sustained? No, my Lord, the plaintiffs would have roundly alleged, that Sir John, conscious of what he was about, had spirited away the man-servant, and murdered the maids, lest they should afterwards have told tales.

HAD the defendant endeavoured to shew the improbability of all this horrid scene of perfidy and murder, he would have been told, that when a man has resolved to perpetrate a crime, he sticks at nothing to accomplish it; that the dreadful consequences of a discovery, ever present to his mind, frequently push him on to commit one crime with the view of concealing another; that however shocking the murder of two innocent maids might appear to an undebauched mind, it would seem a mere trifle to one who had determined to violate the sacred laws of honour and religion by the supposition of children.

HE would be told, that it was impossible in the nature of things for those maids to have lived in family with Lady Jane, and not to have known whether she had or had not been pregnant; they had access to see her upon all occasions, dressed and undressed; they could mark the gradual increase of her bulk; they made her bed; they washed

washed her linen ; how could they be mistaken ? He would have been told, that Sir John having been conscious that there was no real pregnancy, must have also known that the maids knew as much, and therefore he had no choice but dispatch them, or bribe them to keep the secret. The last expedient he must have known to be extremely dangerous ; for can a fact remain long secret, if three or four women are in the knowledge of it ? The defendant has reason to thank God, that he has not such points of dittay to answer, and may boldly defy all his enemies to produce one single circumstance in the conduct of his parents that necessarily infers guilt.

It was essential to the success of the plaintiffs suit, that the character of Lady Jane Douglas should be arraigned as well as that of her husband ; accordingly she is charged with having been his accomplice in the supposition of children. In all criminal actions, my Lord, the characters of the persons accused have great weight with judges and juries ; more especially where the alleged crimes are either improbable in their nature, or where the proof rests upon circumstances, and pretends not to positive or direct evidence.

LET me ask then, my Lord, let me ask the most unfeeling of Lady Jane's enemies, of what crime she was formerly guilty, and what character she bore in the world till the commencement of this suit ? Will they refuse that she had the universal esteem of her acquaintance ? will they refuse that she had the character of a lady, no less distinguished for her piety, candour, and humanity, than by her misfortunes and high rank ?

rank? Surely, my Lord, such a character, uniformly supported in her own and foreign countries, till the fifty-fourth year of her age, when she died, is not easily to be shaken.—Shaken however it must be, yea, totally overthrown, or the mighty pile raised by the plaintiffs falls to the ground. Let me further ask, what are the great discoveries which time hath made regarding this lady's character? Of what crimes has she been guilty? She married a gentleman, without consulting her friends;—she concealed that marriage for some time;—she highly resented the unworthy use that a certain lady had made of the report of her being married, and, in the warmth of her resentment, sometimes contradicted that report;—add to all this, that she pretended to be the mother of two children; and if I mistake not, your Lordship has the sum-total of the charge against Lady Jane Douglas!—

WITH regard to the occasional refusals of her marriage, would to God the customs of the world gave less sanction to such deviations from truth!—I will not presume to vindicate what I am well assured Lady Jane herself must have afterwards condemned.—Let those also condemn her who are conscious of nothing to reproach themselves with. In regard to the much heavier accusation, the pretending to be the mother of two children; I shall only observe, that it is not yet a clear point that these children were not her own.

THE plaintiffs, my Lord, well aware that to every crime there must be an impelling motive, have been pleased to impute Lady Jane's conduct to

to the three following: 1. A desire to draw more money from her brother the Duke of Douglas for the support of her family. 2. A view to succeed him in the estate. And; 3. Resentment of some real or pretended injuries received from the family of Hamilton. With regard to the first; Lady Jane, who knew the Duke's temper, could not but look upon such a scheme as extremely precarious; it cannot therefore be well supposed, that she would have tied herself down to a great and certain expence, upon the bare possibility of obtaining a larger appointment from her brother. And here, my Lord, let me observe, that when an argument to this effect was drawn in favour of Lady Jane, from the principles of common prudence, it was *genteelly* answered, that *had prudential considerations been of any weight, they would have prevented her marriage.* Most certainly the plaintiffs have no right to inquire into the motives which determined that lady in her choice of a husband; nor could she possibly foresee the thousandth part of that distress, into which her marriage, with the handle made of it by her enemies, afterward involved her. In regard to the second; can we suppose, my Lord, that a delicate ailing woman, in the fiftieth year of her age, would go upon such a piece of quixotism, with the remote, the precarious view of succeeding a brother only about two years older than herself! a brother, whose constitution, temperance, and sequestered way of living, gave him many chances for a longer life than herself. As to the third; it appears not from any thing in process, that Lady Jane had received any personal injury from the Hamilton family at that period; the polite manner in which his late Grace behaved

to her after her return to Scotland, does not apply here.

BUT, my Lord, to show in the strongest light the utter improbability of such a visionary scheme, I would ask, could Lady Jane Douglas, could a woman of much lower intellects have deliberated a moment upon it, without foreseeing the infinite hazard that must attend the execution of it? Crimes that may be committed in a moment, in darkness, or by a single person, meet with feeble resistance from bad minds; but those crimes in which several persons must be concerned, and which require many months to accomplish them, are not so readily gone into even by the most abandoned. Had Lady Jane on the one hand seen a remote view of succeeding her brother, on the other she must have seen the honour of her family laid in the dust, and the inheritance of her fathers, by her crime, become the property of strangers to their blood. What effect such a prospect must have had upon a mind so delicate, so susceptible of the most exquisite feelings, is not hard to conceive. Let me add to all this, the great, the apparent danger of a discovery, in the very place where the crime was to be committed, or at some future period, by the honesty or weakness of her companion or maids; and I imagine the moral impossibility of going into such a scheme will be evident.

THE determined firmness with which the Duke of Douglas refused to see his sister and her children, hath been strongly urged by the plaintiffs in proof that he did not believe these children to be hers. This, my Lord, the defendant

dant neither denies nor wonders at. How was it possible for his Grace, locked up, as it were, in his own house, the prisoner of a miscreant, whom he had raised from the dunghill, and suffered to see no body, to correspond with no body, without the good leave of this fellow; how was it possible, I say, for the Duke of Douglas to see his sister in any other light but that in which his prime minister was pleased to represent her?

THIS mean tool of avarice and ambition was universally known to have been courted, to have been flattered, to have been almost worshipped by Lady Jane's enemies: to be of that number, or connected with them, seems to have been the highest merit that any body could have with him. This minister of iniquity at last went to his place; Douglas-castle was no longer inaccessible; the Duke saw his friends and neighbours; his character rose every day in the esteem of the world; and thus the power of Lady Jane's enemies was greatly broken. The malevolence of that wretch's heart, the inconceivable brutality of his soul, who could shut her brother's gates against Lady Jane Douglas and her two infants, fill one with horror.—Pardon me, my Lord, if I have expressed myself too warmly; who can be cool upon such a subject!—The person I have in my eye is White of Stockbrigs, whom the Duke raised from a common working-mason to be his chamberlain, and generously dispensed with his finding security for that great trust. From the deposition of one of his Grace's domestics, it appears how basely this ungrateful man rewarded his indulgent master.—He gave out, that
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the Duke would sooner fall upon his fork than give a dinner or a bottle of wine to a friend; by which, and by other such infamous arts, his Grace's friends and neighbours were with-held from calling upon him. His character, during White's ministry, was as little known ten miles from his own house, as it could well be at the Land's-end of England. Upon White's death, at Douglas-castle, several of the Duke's friends were sent for to see his repositories opened, and to look into his accounts. Of this number was the late Sir William Douglas of Glenbervie; who told me, several years before the commencement of this suit, that in White's apartment were found many letters addressed to the Duke of Douglas, which his Grace then publicly declared he had never seen before. I could have wished, my Lord, for the credit of birth and education, that this low creature had alone been chargeable with abusing the Duke of Douglas; but the truth is, he was aided and supported by his superiors in birth and fortune: forged conversations were transmitted to his Grace, grossly abusing his sister; and to add weight to the calumny, a very respectable lady was introduced. This lady lived long enough to convince the Duke of their falsehood, and to fix an eternal mark of infamy on the wicked author.

PREJUDICES, my Lord, acquire strength by time; the mind cannot without pain give up with opinions as false, which it hath long held as true. If this observation applies to matters purely speculative, how much more to opinions which have had a great influence upon one's moral conduct? If an unjust opinion has led one into a course of
action

action which plunged in the deepest distress, and at last broke the heart of the person upon earth dearest to him, and in all respects most deserving his love and esteem; how painful, how inexpressibly-painful, must the conviction of such a fatal mistake be to his mind! He pities, he pardons, he prays for the wretched instruments who misled him; but never, never can forgive himself. This, my Lord, was precisely the case of the much-abused, the unfortunate Duke of Douglas! But I draw the veil of silence over a scene too deeply affecting to be fully seen or described.

HAD the Duke of Douglas died with those prejudices upon his mind, the plaintiffs might have urged them with a better grace. His prejudices were indeed strong, but truth is invincible. If they were strong, my Lord, the greater force of evidence was necessary to remove them. Were they not thoroughly removed? did he not cancel the fatal effects of them? is not this suit a striking proof of his conviction? His beloved sister was no more; hath he not done ample justice to her surviving child? The plaintiffs, my Lord, have no right to canvass that evidence, which completed his Grace's conviction; nor, if they had, is it possible for them to apprehend its full force.

THE Duke of Douglas knew thoroughly all the arts that Lady Jane's enemies had made use of to ruin her in his esteem;—he knew distinctly what account they had all along given of her conduct;—he knew in what manner, by their accounts, she had become possesst of her children;—and by comparing all these with the conversation
he

he had with my Lady Stair, the accounts he had received from Mrs Hewit and others, and by reflecting upon the characters and probable views of those who had distinguished themselves against his sister, he became qualified to judge of her guilt or innocence, in a degree much superior to any man upon earth. The result of that judgment does honour to his Grace's candour and humanity; and after ages will execrate those arts by which two noble persons, equally united by the ties of blood and friendship, were so long and so unhappily divided.

MUCH has been said by the plaintiffs of that air of mystery and concealment, which, by their account, runs through the whole of Sir John and Lady Jane's conduct. But it may be considered, that there is nothing easier than for fanciful or interested people to find mysteries in every thing; for a mystery may be defined, either a thing in its own nature above the reach of our faculties, or a thing artfully thrown out of its plain and natural point of view. And I will presume to say, that there is nothing in Sir John's or Lady Jane's conduct which may not be accounted for upon the principles of plain common sense; nor any thing very surprising, when stript of that glare and false colouring, which the plaintiffs have so liberally thrown over it.

WAS it not very natural, my Lord, for a lady who entirely depended upon a brother, with whom she was upon bad terms, and who, without his knowledge or consent, had married a gentleman by no means able to support her according to her rank; I say, was it not very natural for

for her to conceal that marriage from her brother, till a favourable opportunity might occur of acquainting him? was it not a prudent step to go abroad for some time with this view? and can she be greatly blamed for laying hold of the very plausible pretence, which the then state of her health afforded her for going abroad?

IF a female relation heard of that marriage, and made an unworthy use of the report, is it wonderful if the lady, in the warmth of resentment, and alarmed at the probable consequences, contradicts the report and denies the marriage? If fourteen months after her marriage this lady becomes pregnant, what must she do? *Acknowledge her marriage, or suffer in her fame.* Lady Jane Douglas chose the first. If this lady, then in her fiftieth year, instead of ostentatiously showing, is at pains to conceal her pregnancy, what conclusion would candor draw from her conduct? *An excess of modesty is an excess of virtue.* Should it be doubtful whether ever this lady consulted a physician, during her pregnancy; were it even certain that she never did, must we therefore believe her pregnancy to have been only affected? Certainly not; millions of women who have born children never saw a doctor in their life.

If the place where this lady occasionally resides becomes the seat of public congress, if the price of lodgings is raised, if provisions become dearer, if a greater resort of company seems unavoidable; if her finances are low, her funds extremely precarious, what would prudence suggest to her in such a case? *Quit the place, go where you can live cheaper, and more retired.* If, when just entering

tering upon the eighth month of her pregnancy? she has the courage to think of making a long journey, what would timidity say? *It is dangerous.* What experience? *Thousands have undergone the like or greater fatigues without the least bad consequence.* What would prudence suggest? *Make short journeys and long rests.* Lady Jane Douglas travelled from Aix-la-Chapelle to Liege in *one day*, and *rested three*. Hence to Sedan in *three days*, and *rested a week*. Hence to Rheims in *three days*, and *rested a month*.

THERE is, my Lord, no circumstance in Lady Jane's conduct which the plaintiffs have made a greater handle of against her, than her long stay at Rheims, and her not having chosen to be brought to bed there. But, my Lord, to this it may be answered, 1. That Lady Jane had an unquestionable title to chuse what place she thought proper for lying in at. 2. It is in proof that she was advised to lie in at Paris, and that she had resolved so to do before she left Aix-la-Chapelle. 3. It was very natural for her, when she had taken a house at Rheims, to which she intended to return, to continue there till near her time. To Paris was only two days journey; and though she was brought to bed the sixth day after she arrived there, possibly she had not reckoned upon her hour being so near.

THE whole of Sir John and Lady Jane's conduct while in Paris has been severely scrutinized, and no less severely blamed by the plaintiffs; all, according to their account, is mystery and concealment, all points at the blackest designs. Here, my Lord, I would observe, that a person of com-

mon feelings, who has any idea of what it must have cost a lady of the first rank to be reduced to the mean apartments and poor attendance that we are sure Lady Jane Douglas must have put up with upon that occasion ; such a one, I say, will much sooner impute this to a fatal necessity arising from her depressed circumstances, than to her own free choice, with a view to accomplish a very mean, a very wicked fraud, quite contradictory to the opinion that all the world had formed of her character. But the plaintiffs proof in general, especially in regard to this period, has already been set in so just a light, that I have nothing to add.

HOWEVER painful it may be, I will for a moment suppose, with the plaintiffs, that Sir John Stewart and this unfortunate lady really were accomplices in the crime with which they are charged ; and, upon this supposition, would beg leave to ask, Is it not strange, is it not wonderfully strange, that these accomplices in so black a fraud should not, in the course of their private correspondence, have ever once dropt the least hint either inferring guilt or a suspicion of a discovery ? Was this correspondence artfully carried on and studiously preserved to support the cheat ? No, my Lord, those inestimable vouchers of Lady Jane's piety, resignation to the will of God, and other amiable qualities, were discovered long after her death ; not carefully wrapt up and deposited in Sir John Stewart's cabinet, but thrown by neglected in a garret, among useless papers and old cloaths, in a house at London, where Sir John had lodged when a prisoner within the rules of the King's-bench. And what is very remarkable, when, by Sir John's permission,

the landlord fold these cloaths for payment of the rent, it does not appear that Sir John set any value upon these papers, or even once desired to have them sent down to Scotland; nor in fact were they ever moved from the place, till after the commencement of this suit.

AND here, my Lord, I cannot help observing, that however careful people of business may be of their letters, it is a very common practice among gentlemen to carry the letters they receive in their pocket till they are chafed and wore out, and when become too bulky, to burn or throw them carelessly by. This, by the appearance of the paper, seems to have been Sir John Stewart's method of treating his correspondence; and indeed we have a striking proof of it in the deposition of Lady Stewart, his widow; from which it appears, that several of the most material letters and papers in this cause were first shown to her by a servant of Sir John's, who was about to quit his service; and *that these papers lay in an old trunk under that servant's care, in which he was in use to keep shoe-brushes, deer's grease, &c.*

NEED we therefore wonder if many letters have been lost and destroyed, which might have thrown light upon this suit? And may I not here, with great appearance of probability, venture upon a conjectural answer to some questions which may be very naturally put: What became of La Marre's original letters? why were the copies only preserved? or why were they copied at all? The fact seems to be, that these letters were carried in Sir John's pocket till tattered and wore out, so as to be illegible to every body but himself; and that then believing them to be
of

of consequence, he caused some blunderer copy them for him. But this I only offer as a probable conjecture.

BUT, my Lord, had Lady Jane Douglas been really guilty of the crime imputed to her, did she not live long enough to have seen how unsuccessful it was like to prove? Did she not find, that, by the aspersions thrown upon her character, altogether on that account, her brother's heart was steeled against her to a degree scarce conceivable? that it was become absolutely impenetrable by the interest of their friends, and not to be moved by the very affecting situation of her family? How distressful that situation!—lodged in mean apartments—her husband in jail—herself and children frequently without bread,—obliged to pawn and sell her cloaths for subsistence—her health greatly broken—insulted by her enemies—neglected by her friends—language fails me—the generous and humane will supply its defects.

WAS not this situation a time for recollection? was it possible for Lady Jane not to reflect upon her conduct? and if she must have reflected upon it, could she do it without horror? To what but her own guilt and meanness could she have ascribed her misfortunes? to what but the just vengeance of heaven, the firmness with which her brother refused to see her? to what her want of bread, but to the just judgment of God, for having raised up two impostors to eat the bread of others?

I DO not say, my Lord, that these feelings, however natural, however unavoidable, must have

have produced an acknowledgment of her crime ; but I appeal to the conscience of every man, to the experience of all ages, whether they must not, on many occasions, in such trying circumstances, have betrayed great suspicions of guilt and a disturbed mind ? Was it ever alleged, that Lady Jane Douglas, upon any occasion whatever, betrayed the remotest indication of a guilty or disturbed mind ? No, my Lord, she bore her misfortunes with great dignity and spirit ; ever cheerful, ever resigned to the will of God : an illustrious example, that piety and religion are superior to the greatest difficulties.

CAN we then believe, my Lord, that a lady whom people of all ranks, in different nations, and of different religions, looked upon as the most amiable, the most virtuous of her sex, was all the while a gross hypocrite, dissembling with God and man, daring the vengeance of the one, imposing upon the credulity of the other ? Could a woman of this character, in the language of genuine devotion, in the greatest distress, console herself in the cheering hopes of God's favour and protection, while in the mean time she knew her conduct so blameable, her views so unjust ? Do not those objects and pursuits, which in the fair days of prosperity, and sunshine of health, seduce us from our duty, assume a very different appearance in the dark days of adversity, when all around us is gloom and sadness, when our blood runs cold, when our nerves are unstrung, and the *arrows of the Almighty stick fast in our souls ?*

YET in all her distresses, next to the mercy of
God,

God, the defendant and his brother were the joy, the chief consolation of Lady Jane's heart. Did all that she ever suffered, for a moment abate the fervour of her tenderness for either of them? Did not the loss of the one absolutely break her heart? did she not pour forth her dying, her maternal blessing on the head of the other? Could she have felt the gradual approaches of death, with such a load of guilt upon her mind, and not have trembled? Durst she, I speak as a Christian, I know to whom I write, durst she, my Lord, when but just alive, reduced with pain and sickness, and within a few days of her death, have publicly approached the altar of the God of truth, in joyful commemoration of that meritorious death by which penitent sinners only are saved, while she yet knew herself meanly and wickedly supporting an impostor?

COULD she, in such a situation of mind, have welcomed the king of terrors, as the kind friend who was just to put an end to all her sorrows? Durst she, with her feeble hand upon the defendant's head, and her eyes lifted up to heaven, have in her last moments recommended him to the divine mercy, *as her son*, had she known him to be an impostor? Durst she have expressed her confidence, that her dying request would be indulged; and in that pleasing hope could she have shut her eyes upon the world? Great God! if the fairest characters may be thus blasted in a moment;—if the uniform tenor of a long life devoted to piety and virtue be no security, in what a wretched situation are mankind!—Happy! thrice happy, ye dead! who are removed from such a perilous scene.

THUS

Thus I have given your Lordship my opinion of this great cause, and of the two principal characters concerned on the part of the defendant. The character of Mrs Hewit, Lady Jane's friend and companion, is established upon the most solid basis, by the depositions of a Reverend clergyman, and other persons of acknowledged probity, who were long and intimately acquainted with her. She died affirming the truth of what she had all along said, and what she had repeated times solemnly sworn, in relation to the defendant's birth. Her testimony stands confirmed by the oath and dying declaration of Sir John Stewart; by the uniform conduct, through life, of him and Lady Jane Douglas; and by a thousand other striking circumstances; against all which the plaintiffs would oppose some trivial mistakes in her deposition, which chiefly regard dates and circumstances.

THE character of Isabel Walker, formerly one of Lady Jane's maids, and one of the two left at Rheims, is no less unexceptionable: she has obtained the most honourable testimony from several of the learned judges in the court of session; and will be distinguished to the end of time, for her firm adherence to the cause of truth, and her steady unshaken attachment to the most deserving, though the most unfortunate, mistress, that these latter ages have produced.

THE complexion of this suit on the part of the plaintiffs, is painted in such strong and lively colours in the pamphlet mentioned in the beginning of this letter, that nothing can be added to it. The proceedings in France, especially the

the Tournelle Process, are there set in a very just and alarming point of view; and I will affirm that man unworthy the liberty of a British subject, who can read the accounts of that procedure without indignation. Should these arbitrary proceedings, at any time hereafter, obtain the sanction of our laws, what a wound must the liberty of the subject thereby receive! What a triumph would it be to foreigners, that those despotic measures, which we had so long and so justly exclaimed against, were at last adopted by us, and become part of our polity! Forbid it, ye blessed spirits, protectors of liberty, that ever the life, the rights, or the property of a British subject should be again questioned in a court, where he dares not appear to vindicate them!

THUS, my Lord, the Genius of Britain solicits our attention, let us listen to her voice. “ While
 “ ye yet enjoy liberty, O my charge! set a just
 “ value on the inestimable blessing. Your rights,
 “ your properties, your all, depend upon the
 “ due and impartial administration of those sa-
 “ cred laws and customs which your ancestors
 “ have transmitted to you. Innovations are al-
 “ ways dangerous; dread therefore the smallest
 “ alteration of those laws and customs, by which
 “ the peace of your families, and the sacred rights
 “ of your children, are preserved inviolable,
 “ Think evil of no man, but modestly represent
 “ the danger of a precedent, which would have
 “ a tendency to introduce among you jealousies,
 “ surmises, informations, and endless law-suits.
 “ Let not the loud clamours of disappointed ava-
 “ rice, abate your horror of a precedent, which
 “ would put a man’s state so much in the power
 E “ of

“ of his lowest enemies. Start not at shadows,
 “ be not alarmed at dangers barely possible :
 “ artful men may involve the simplest facts in
 “ clouds and darkness ; sophistry can put a face
 “ on the vilest argument : but let your judg-
 “ ments be determined by general principles,
 “ not by dark and suspicious circumstances.
 “ Human weakness cannot prevent the possibi-
 “ lity of committing crimes ; it is impossible but
 “ the guilty must sometimes escape punishment :
 “ how much better this, than that the innocent
 “ should suffer ? suffer by those very laws, made
 “ for their protection !”

PARDON me, my Lord ; I have exceeded all
 bounds in the length of this letter.—If I have
 sometimes expressed myself with too much
 warmth, candidly impute it to an honest zeal for
 truth. I have no connection with the defend-
 ant ; I am not known to his managers ; I have
 not the remotest dependence on him or them.
 What then should influence my judgment, but the
 real merits of the cause ?—I have ever thought
 it the vilest, the most ignoble prostitution of the
 talents God hath given one, to employ them in
 support of a bad cause : for surely the man, how-
 ever distinguished, who pleads or writes against
 the convictions of his own mind, is a mean and
 most despicable wretch. I have the honour to
 be, with the utmost respect,

My Lord, &c. &c.

ADVERTISEMENT.

NEITHER the question with regard to *general Warrants*, nor any other question which has occurred for many years, has been so alarming as THE DOUGLAS CAUSE, which threatens a total destruction of the invaluable security of BIRTHRIGHT, in comparison of which all questions of *Liberty* or *Property* are but of inferior moment.

A fellow-citizen, warm in the cause of truth, thinks he cannot better shew his public spirit and concern for the happiness of society, than in laying a fair state of this matter before THE IMPARTIAL PEOPLE of these *kingdoms*, that like a faithful watchman, he may warn them of their danger.

I was present during the whole determination of this cause before the Court of Session in Scotland. I took very full notes, and I cannot help regretting that the speeches of several able judges have been published in a very partial manner.

The

ADVERTISEMENT.

The greatest part of the arguments in this essay, are selected from the genuine notes of these speeches: Some are also taken from the memorial for Mr Douglas, and a variety of hints have been furnished from different periodical publications. In particular, I am indebted to a spirited article in the Critical Review.

I beg leave to add, that the plan, the arrangement, and many new thoughts are my own.

THE

T H E
E S S E N C E
O F T H E
D O U G L A S C A U S E .

THE Douglas cause has now made a Importance noise all over Europe; and indeed of the Dou- no cause ever came before a court of justice, so interesting in its nature, and of such universal importance. glas cause. In one view it is a question, whether a young gentleman of distinguished merit, the only remaining representative of the illustrious house of Douglas, is, after nineteen years possession of his estate, to be deprived of it, and to be reduced to a situation worse than death? But in another view, it is a question, whether the law of birthright, which has been established for ages, is now to be overturned?

The memorials and cases for courts of This cause justice in this cause, are of a length which involved in has never occurred in any question. The the memori- als and cases.
A plaintiffs

plaintiffs have, with great expence, industry and art, collected an immense mass of materials, which they have, with equal expence, industry and art, contrived to arrange in a such a manner as to carry a plausible appearance. The defendant, from the nature of judicial proceedings, has been obliged to follow his enemies through all their doublings, so that he too has been necessarily involved in a tedious train of arguments.

An abridgement of it may be favourably received.

As the Douglas cause is a question in which the impartial people of these kingdoms are very seriously concerned, and there are few who can submit to the fatigue of discovering the truth in so motely a heap, I would flatter myself that this essay will be favourably received.

This an impartial and accurate view of the cause.

I am going to plead the cause of Mr Douglas. I own I am most warmly interested for him; but I trust that I have examined his cause with impartiality. I shall write the following sheets with an honest and laudable intention. The arguments I submit to those who may honour me with a reading. The facts cannot admit of any doubt; for I shall not state a single fact without a reference to the proof of it.

This

This essay will consist of four parts. 1st, I shall lay down the principles of law with regard to filiation, or the state which every man holds in society, and what ought to be the motives and conduct of those who carry on a process to deprive a subject of his birthright. 2dly, I shall shew the motives and conduct of the plaintiffs in the Douglas cause. 3dly, I shall examine the proof which has been brought against Mr Douglas. And 4thly, I shall state the proof for Mr Douglas.

This essay
will consist
of four parts.

Filiation or birthright is of all things the most valuable to mankind; for all the blessings and comforts of life, the succession of property and of honours, all the rights and all the affections of blood flow from it: therefore it is that the wisdom of law hath been particularly careful that the birthright of the subject should be inviolably protected.

Part I. Fili-
ation or
birthright.

We are not allowed to talk of filiation in the manner of scepticks, who may raise innumerable doubts concerning every thing which occurs in human life. A wife may be unfaithful; a nurse may be unfaithful; and various other methods may be figured by which supposititious children can be introduced into families. There is no doubt but a variety of such cases have actually happened; and there-

What kind
of certainty
law requires
in filiation.

fore, in a strict philosophical sense, there is properly no certainty in filiation. But it is the spirit of law to disregard such possible cases, and not to look for a certainty in the abstract, but a legal certainty. For law, like a kind parent ever watchful for the good of her children, hath established such solid rules as may check the uneasy waverings of scepticism, and make mankind pass through life with tranquility and satisfaction.

Acknowledgment of parents and general report sufficient.

Therefore it is, that according to law, to ascertain the birthright of the subject, so as to entitle him to succeed to the greatest estate and honours, nothing more is required than his being acknowledged by two married persons as their child, and being commonly reputed to be so. This is a natural and an unsuspicious principle. It is natural to suppose, that people will not acknowledge and shew parental fondness for children which are not their own, and it is unsuspicious, because it shews a reasonable confidence in the good faith of society, without which our lives must be miserable indeed.

The danger of a contrary doctrine.

Were it otherwise, the fountain of all civil blessings would be insecure, and mankind who have taken such pains to frame laws for the preservation of their liberties and properties, would be left in a wretched

ed state of uncertainty, with regard to that great right from whence all their liberties and properties are derived.

The birth of a subject of any state may happen in a foreign country, or at least in a distant colony. Great Britain hath now extended her dominion over a part of Africa, as well as over many distant islands and an immense continent in America; it is therefore of infinite importance, that the children of those who are born abroad should also have their birthrights secured to them.

Of this the law hath also been mindful; for it is a principle in law, that if a person is acknowledged by two married persons as their child, and has in his favour the common fame or general belief of the country *where he was born*, he is thereby entitled to the full possession of his state and birthright, with all its privileges in every part of the globe; and it will be in vain to object to his claim in any country, that in that country there have been reports of his illegitimacy, although there were no such reports in the country *where he was born*.

If this sacred right were not so guarded by law, it is evident that all our fellow-subjects who are born beyond seas, would be

A subject
may be born
in a foreign
country.

The law
mindful of
this.

The reason
of it.

be inevitably exposed to the wicked designs of interested people at home.

This strongly illustrated and brought home to the best families in these kingdoms.

Nothing is now more common than for younger sons of the best families in these kingdoms to settle in distant countries, and there are few families of which the succession does not, in four or five generations, devolve upon a distant branch. They who are at home, foreseeing this, would have nothing more to do than to employ two or three villains to raise reports, that the next heir of the family was an illegitimate or a supposititious child; and in that manner the real representative and rightful heir of the noblest in Europe might be injuriously prevented from enjoying the succession of his ancestors.

Alarming apprehensions of British merchants, soldiers, sailors and travellers.

Should the law allow of this, then the respectable body of British merchants established all over the world, our soldiers and our sailors, and even those whom bad health or curiosity may lead into foreign parts, must all be subjected to the cruel apprehension of having their children represented as spurious, and robbed of their rights, and themselves loaded with infamy, as persons guilty of one of the grossest of crimes.

Holding

Holding it therefore as an inviolable principle of law, that a subject acknowledged by a husband and wife as their child, and believed to be so in the country where he was born, is thereby fully vested in the possession of the sacred privilege of birthright: I also hold, that according to law, on which we all depend for protection, he must retain this possession, till those who seek to deprive him of it do show that he enjoys it upon a false supposition.

A plaintiff
in an action
of *Partus
Suppositio*
bound to
prove all.

He who is thus attacked finds himself intrenched in his legal possession. He is bound to prove no circumstances with respect to his birth, for he is a stranger to all those circumstances: he, like every one of us, can only say, such a man and his spouse always acknowledged me as their child, and I have always been treated as such by the whole neighbourhood, and by every body in the country.

A defendant
in an action
of *Partus
Suppositio*
bound to
prove no
more than
his legal pos-
session.

It is therefore incumbent upon those who attack the birthright of a subject to prove their accusation: and they are not to be allowed to argue from the imperfections which ingenuity may find in any proofs which a person so attacked may think proper to bring, over and above the great and material proof of the acknowledgment of parents, and the general

If a defen-
dant should
bring more
proofs, their
imperfection
no argu-
ment.

ral belief of the country where he was born.

Any such additional proof must, from the nature of the thing, be imperfect.

Any such additional proof which a defendant may choose to bring, must, in almost every case, be exceedingly imperfect from the very nature of the thing to be proved. The birth of a subject is a transient act which often happens unexpectedly. At any rate it is an act which every circumstance both of nature and custom concurs to render as private as possible; and therefore the evidence of an actual delivery will hardly ever be such evidence as courts of justice demand for the attestation of a fact.

A charge of *Partus Suppositio* odious.

The plaintiffs, therefore, in a charge of *Partus Suppositio*, have all to do; and indeed they have a formidable task, when they bring so odious a charge against a subject who is in full possession of his state.

The plaintiffs proof must be direct, not presumptive.

The proof which the plaintiffs in such a cause are bound to bring, is a direct and positive proof. Presumptive evidence is often fallible in all cases, and is therefore to be received with caution; but in a case of this nature it cannot be received at all. If there is any darkness or any dubiety, the dread of shaking loose the fabrick of society must determine us to acquiesce in the

the acknowledgment of parents corroborated by universal fame.

It is very false reasoning to argue, that because presumptive evidence has been admitted by juries in trials of some crimes, it should therefore be admitted in a trial of *Partus Suppositio*. In a trial for murder or for robbery, it is already certain that a man has been murdered or robbed, so that it is certain a crime has been committed; and as "*Interest reipublicæ ne crimina maneat impunita*; It is the interest of the state that crimes should not pass unpunished," it is necessary to have recourse to such evidence as the nature of the crime will admit. But an accusation of *Partus Suppositio* is widely different; for there, that a crime has been committed is necessary to be proved. We have nothing for it but the assertion of a plaintiff, which may be unjust; and therefore I deny that a presumptive evidence from circumstances, all made to refer to a supposed crime, can be allowed in an accusation of *Partus Suppositio*. It is surely not the interest of the state to make crimes where there may have been none, and to admit of imperfect evidence in order to add to the uncertainty of human comforts and enjoyments, and to weaken those principles by which we are animated to be good citizens. Therefore he who would over-

A trial of *Partus Suppositio* different from a trial of other crimes, and therefore it requires a different evidence.

throw an established filiation, must bring such a proof as renders the filiation impossible.

These important principles of law become stronger by length of time.

These important principles of law become gradually stronger in proportion to the time that a subject has been in possession of his state; because, although he is originally obliged to bring no other proof but that of the acknowledgment of his parents, and the belief of the country where he was born, he may afterwards be under a necessity of bringing more evidence, in order to shew the weakness and fallity of the proofs brought against him: But if the action against him shall be long delayed, the presumption of law in his favour will have grown up to a much greater degree of strength than if the action against him had been brought at an early period; because, from the gradual decay of memory, and the unavoidable death of witnesses by the lapse of time, a defendant cannot be reasonably supposed to bring such a proof at the distance of ten, twelve, or fifteen years, as could be done at an early period: And a thousand little circumstances will, after so many years, be totally inexplicable, and may, by the art of counsel, be converted into arguments of suspicion.

As

As an action of *Partus Suppositio* is an action solemn, important and alarming to society, the motives for undertaking it should be the most unexceptionable. If it should appear that such an action is undertaken from motives of private pique or resentment, it is to be looked upon with a jealous eye; for such is human nature, that our evil passions will influence us more than any other motive, and they who would proceed with calmness, and with justice, in a matter of mere interest, will be guilty of violence, and of dishonesty, when actuated by revenge.

The motives for undertaking an action of *Partus Suppositio* should be most unexceptionable.

The conduct of such an action should be particularly candid; for all who wish well to society, should wish to have it found, that no such atrocious crime has been committed. Every thing should therefore be carried on in the most open and unsuspicious manner. Were this crime to become frequent, all the happiness of human life would be at an end—Every instance of it must tend to a diminution of our happiness. They who should be abandoned enough to endeavour by false evidence to create imaginary guilt of so horrid a nature, would deserve to be hunted down as traitors and assassins.

The conduct of plaintiffs in an action of *Partus Suppositio*, should be particularly candid.

Part 2. Mo-
tives of the
plain tiffs in
the Douglas
cause.

The motives of the paintiffs in the Douglas cause, will appear from the following circumstances:

The family
of Hamilton
have long
had designs
on the estate
of Douglas,
and actually
obtained a
settlement
of the estate.

The family of Hamilton, and their adherents, had long carried on designs to obtain the succession of the Douglas estate, on the decease of the late Duke; and had succeeded so far, that the Duke had actually made a settlement upon that family, in prejudice of Mr Douglas, his nephew, the defendant in the Douglas cause, who was artfully represented to the Duke as a supposititious child.

This settle-
ment was
cancelled,
and the es-
tate deviled
to the right
heirs.

In this situation matters continued till after the Duke's marriage, when the Dutches of Douglas, who was fully convinced of the iniquity of all the accusations brought against Lady Jane Douglas, sister of the Duke, and mother of the present defendant, exerted herself with a spirit and generosity which will ever do her honour; and was so happy as to undeceive the Duke, and to prevail with him to cancel the settlement which he had made upon the family of Hamilton, in prejudice of the right heirs.

After the
duke of Dou-
glas's death,
duke Hamil-
ton claims
the estate as
heir male,
and loses his
plea before
the court of
session.

After the Duke's death, a suit was commenced before the Court of session in Scotland, by Duke Hamilton, claiming the estate of Douglas as heir-male; but it was

given

given against him by an almost unanimous decision, there being but a single Judge for sustaining his plea.

It was thought that the family of Hamilton would immediately have carried this suit by appeal before the house of Lords, in order to have it finally settled, Whether or not they could have any claim upon the Douglas estate? and consequently, if they had any business to interfere in the affairs of that family?

It was thought this would have been first settled by appeal to the house of Lords.

Instead of this, the family of Hamilton commenced the great suit known by the name of the Douglas cause, with intention to prove that the present defendant was in reality not the son of the Lady Jane Douglas, but a supposititious child, picked up from the streets of Paris.

Instead of which the present suit was commenced.

In this Duke Hamilton could have no possible interest; for if the estate of Douglas should be found to belong to the heir-male, Duke Hamilton would then take it up in prejudice of Mr Douglas, as well as of the other heirs of line. And if it should be found that the estate belonged to the heirs of line, then all the other heirs would cut out Duke Hamilton as effectually as Mr Douglas would do.

Duke Hamilton can have no interest in it.

Nay,

On the contrary, it is against the interest of that family.

Nay, so far was Duke Hamilton from having any interest in this cause, that he was taking the direct method to prevent a chance which a branch of the family had of obtaining the estate of Douglas.

This clearly evident.

For the late Duke of Douglas, a little before his death, made a settlement, in which he provided, that failing his nephew Mr Douglas, the present defendant, his estate should go to Lord Douglas Hamilton, the present Duke of Hamilton's brother. By the law of Scotland, a deed made upon death-bed is not valid if challenged by the next heir; but it might reasonably be supposed, that if the family of Hamilton had behaved in a proper manner towards Mr Douglas, he would, as soon as he came of age, have confirmed the dying intentions of his uncle, in favour of Lord Douglas Hamilton. Whereas it may well be believed, that after the family of Hamilton have done all in their power to blacken the memory of his parents, and to ruin himself, Mr Douglas would hardly choose to devise his estate to any of their race.

Therefore the motives of the plaintiffs in this cause, unjust revenge.

As therefore the family of Hamilton could have no interest in this suit, but on the contrary, have certainly been acting against their interest, they can have no motive to carry it on but revenge against

Mr

Mr Douglas, as the innocent cause of their having been disappointed in their schemes of obtaining the succession to the estate of Douglas.

The conduct of the plaintiffs in the Douglas cause, merits a very particular consideration. If we consider it slightly, and as a circumstance of little consequence, we cannot do justice to the defendant, because the conduct of the cause has been so extraordinary, I will say more, has been so iniquitous on the part of the plaintiffs, that it will account to us for many of the proofs which they have brought, and for the defects in the proof which has been brought by the defendant.

Lady Jane Douglas, spouse of John Stewart, Esquire, afterwards Sir John Stewart of Grandtully, was delivered at Paris of two male twins, by Monsieur La Marre, man-midwife, on the 10th of July, 1748, in the house of Madame la Brune, Mrs Helen Hewit, the attendant of Lady Jane, being present. This was what the plaintiffs had to disprove, but they never attempted to do it till after the death of Lady Jane Douglas, and fourteen years after the birth of Mr Douglas.

The conduct of the plaintiffs the principal point in this cause.

They delay their suit till after the death of Lady Jane Douglas and fourteen years after the birth of the defendant.

Instead

Mr Andrew Stuart their agent, is sent privately to Paris, and a criminal process is raised before the Tournelle.

Instead of applying to the Court of Session for a commission to take a proof, so that fairness might have been insured to both parties, Mr Andrew Stuart, Duke Hamilton's agent, was sent privately to Paris, where he employed one *Danjou*, a *Procureur*, with several other French agents, and after various secret enquiries and consultations, a criminal process was raised before the *Tournelle*, treating Sir John Stewart and Mrs Hewit, as already convicted of the crime of *Partus Suppositio*, and insisting to have them punished accordingly.

This process an insult upon justice.

This process was in reality an insult upon justice. It was a mock accusation, as it related to two British subjects who were not under the jurisdiction of France, and therefore could not be punished by the courts of France.

The real intention of it to obtain partial evidence.

The real intention of it was to obtain partial depositions in support of the plaintiffs cause, from witnesses examined in a private manner, at the instance of one party without the knowledge of the other, and to deter Sir John Stewart, or Mrs Hewit, from going to Paris to give assistance to the defendant, since however innocent, if they had varied from the Tournelle depositions, they would have been put to the torture.

The

The nature of a *Tournelle* examination is this ; a *Plainte* or accusation drawn up by a party in such terms as he thinks proper, and, no doubt, plainly calculated to lead a witness, is given in to the judge. This *Plainte* is read over in the hearing of the witness, who is then called upon to tell what he knows concerning it ; what the witness swears in consequence of this *Plainte*, is immediately written by the *greffier* or secretary, who attends upon the judge ; and when once so written, a witness is for ever after nailed down, and must tell the precise same story at the risk of the most dreadful punishment. There is here no opportunity for an opposite party to ask such questions as may make a witness recollect himself when in a mistake, or as may entrap him uttering falsehoods. No, the *Plainte* is read over, the witness tells his tale, and to this tale he must ever after strictly and invariably adhere ; an establishment not to be found in any country which knows not the torture. And therefore it was well said by a great man, That if there was a bridge between France and England, so as that the *Tournelle* could walk over, he would fly to the *ultima Thule*.

The horrid nature of the *Tournelle*.

Here then the plaintiffs begun with an attempt to stab their antagonist in the

C

dark,

The plaintiffs attempt to stab their antagonist in the dark.

dark, and to gain a most undue advantage over the defendant.

They publish
an infamous
libel called
a *monitoire*.

But not content with employing the *Tournelle*, that horrid engine of tyrannical power, they had also recourse to the terrors of Popish superstition. Application was made to the Church, and the Archbishop of Paris most readily issued what was called a *monitoire important*, an infamous libel, in which the whole story which the plaintiffs wished to prove was fully narrated: Nay, such descriptions were given of the persons accused, that not a man or woman in all France, could fail to form ideas of Sir John Stewart and Mrs Hewit, so that every interested wretch, and every deluded creature, were so conducted to the point in view, that a very little art, or a very little imagination, was sufficient to make them swear what served the plaintiffs purpose.

This more
atrocious
than even in
the cruel
case of Calas.

This *Monitoire* was more atrocious than usual, as it was more express and particular. To shew it at once in all its odious light, I aver, that even in the arbitrary country of France, such a *Monitoire* as this was never known; it was even worse than that in the case of *Calas*, where the consequence was to assemble such evidences, that an aged father was cruelly broken upon the wheel, as the alledged murderer of his son,

son, though he was afterwards, when it was, alas! too late, clearly proved to have been innocent.

Can we without detestation and abhorrence, read of such proceedings as these, in order to influence a British cause, begun without any interest on the part of Duke Hamilton, the motives of which were vindictive, and it's intention to stigmatize with infamy, two persons of rank and character, who are now gone and unable to answer for themselves, and to forfeit the birthright of one of the noblest of his Majesty's subjects?

The abhorrence which these proceedings inspire.

But I am not under the necessity of only throwing out general declamation upon the dangerous nature of these French proceedings, which have been so severely condemned by the house of Peers. I am in condition to give pointed and distinct evidence of the miserable effects which they have produced. This I am enabled to do chiefly by the justice of that supreme court, which ordered the plaintiffs to make a production of the papers containing the information which they had so unjustly obtained.

The iniquitous effects of the French proceedings clearly discovered by the justice of the house of Peers.

Mr *Andrew Stuart*, in his *Plainte* to the *Tournelle*, says, in so many words, that

Mr Andrew Stuart changes his ground with regard to the pregnancy.

Lady Jane put on the appearance of pregnancy*. This we may well believe to have been the case, whether the birth was true or supposititious; and we must believe, that all who saw Lady Jane, concurred in telling him she had that appearance: But Mr *Andrew Stuart* seems afterwards to have changed his ground, and was desirous to prove that Lady Jane had not even the appearance of pregnancy.

Mademoiselle Hibert assures Mr Stuart that Lady Jane appeared to be with child.

In Mr *Andrew Stuart's* journal, we find that he had a conversation with *Mademoiselle Louise Hibert*, who told him expressly that Lady Jane had the appearance of pregnancy, and appeared to be five months gone with child.

Mademoiselle Hibert, after the *Tournelle*, swears that Lady Jane did not appear to be with child.

Yet when this same *Mademoiselle Hibert* comes to be examined after the *Tournelle* proceedings and *Monitoire*, she swears expressly that she observed no appearance of pregnancy about Lady Jane.†

Francois la Marre informs *Danjou*, the plaintiff's procureur, of the connection between *Pierre la Marre* and *Madame la Brune*.

In *Danjou*, Duke Hamilton's French *Procureur's* first note, we find that he had a conversation with *Francois la Marre*, brother of *Pierre la Marre*, who told him frankly and readily, *Sur le champ et sans hesiter*, that his brother *Pierre la Marre*, the *Accoucheur*, was in correspondence and

and intimacy with Madame la Brune; that his brother may have taught her midwifery; and that he himself was acquainted with her.*

In Danjou's second note, we find Francois la Marre telling this agent of the plaintiffs, that the other party had been with him, and that he had informed them of all that he knew, except as to Madame la Brune; which shews, that Francois la Marre was by this time pretty well disposed to conceal what might favour the defenders.†

Francois la Marre conceals this information from those acting for the defendant.

When Francois la Marre comes to be examined by the commissioners of the Court of Session, he swears point blank the reverse of what he had at first, of his own accord, told to Danjou.‡

Francois la Marre swears point blank the reverse of what he told Danjou

In one of the plaintiffs French memorials, we find that they had a conversation with Madame Michelle, who told them, that Lady Jane had all the appearance of a woman newly brought to bed.

Madame Michelle tells the plaintiffs agents Lady Jane had all the appearance of being newly brought to bed.

But after the Tournelle process and Monitoire, Madame Michelle minces down the matter, and, when upon oath, says only, a sickly air.

Madam Michelle upon oath minces this down to only, a sickly air.

* Def. Pr. p. 1031. † Def. Pr. p. 1031.

‡ Purs. Pr. p. 933.

only, that Lady Jane had *l'air malade*, a sickly air.*

M. Gilles,
an acquaint-
ance of
Pierre la
Marre is dis-
covered.

A French counsel, employed for Mr Douglas, having heard that Mr Gilles, surgeon in Paris, had been an acquaintance of Pierre la Marre, applied to M. Morand, a surgeon of eminence, desiring him to enquire at M. Gilles, what he remembered of sundry particulars, concerning which a note containing questions was given to M. Morand.

Messieurs
Morand and
Moreau
have questi-
ons put to
M. Gilles.

Monsieur Morand not being particular-ly acquainted with M. Gilles, employed M. Moreau, first surgeon of the Hotel Dieu, to put the questions: and accordingly M. Moreau returned the questions, with answers dictated by M. Gilles, and written by M. Moreau in his presence.†

M. Gilles's
answers are
clear and
strong in fa-
vour of the
defendant.

The substance of these answers was, that M. Gilles was told by Pierre la Marre, that he was to bring a stranger Lady to bed, who might make his fortune, and that he had actually delivered her of twins. That Monsieur la Marre mentioned, that he had the care of a child that was at Menil-mountain. That M. Gilles knows that this stranger Lady was brought to bed of
two

* Purf. Pr. p. 112, and p. 849.

† Def. Pr. p. 536.

two children, in the house of Madam^e la Brune.

Both M. Morand and M. Moreau, are Gentlemen of the highest reputation in their profession ; and it cannot be supposed that they would use the least endeavour to influence a witness, or obtain unfair answers from him. So that we must believe that these answers given by M. Gilles were the genuine truth.

Monfieur Morand and Moreau are gentlemen of undoubted character.

Yet when M. Gilles has heard of the Monitoire and Tournelle process, he swears positively ‡, that he does not recollect to have heard from Monsieur la Marre that the foreign Lady was brought to bed of twins ; that he never knew a woman of the name of La Brune, nor did he ever hear the said M. la Marre say, that he was acquainted with a woman of that name. And as to the time of the delivery, he, *of his own accord*, observed, that *it could not but be before the year 1748.*

M. Gilles, after the Monitoire and Tournelle, denies upon oath what he had formerly said.

Such is the oath of Monsieur Gilles, after having given the pointed answers so favourable to the defendant, which have been above recited ; and it is extremely particular, that this man, who in his oath hath, for decency's sake, deposed to

The evident partiality of M. Gilles.

‡ Def. Pr. p. 533.

some circumstances which he had formerly told, is so apprehensive lest the circumstances might in any respect assist the defendant, that he takes care to cut them off effectually from this cause, by a round assertion, that the delivery could not but be before the year 1748.

It was fore-
seen by wise
and upright
men, that
justice would
here be per-
verted.

So fatal to the defendant were these most iniquitous proceedings in France, which every wise and upright man condemned from the first moment they were mentioned; because it was evident that they would tend to pervert justice.—How far they have done so, the instances selected from the proof will be sufficient to shew.

A shocking
fact which
the plaintiffs
have not at-
tempted to
justify.

But there is a fact in the conduct of the plaintiffs, which they have not attempted to justify in their elaborate memorial; nor can I see indeed the least possibility of justifying it, as it is a thing clearly proved, and of a most shocking nature.

The plaintiffs
French a-
gents in des-
pair betake
themselves
to the book
of Michelle.

It appears, that when the plaintiffs French Agents were despairing of making any discoveries in Paris, they at last fell upon the book of *Michelle*, an inn-keeper; which bore, that Mr. *Fluratl*, a Scotfman, and his family, had come to this *Michelle's* upon the 8th of July 1748, and remained

remained there three weeks. This was blazed abroad as a most important discovery, since it would effectually prove an *alibi* on the 10th of July, the day on which Lady Jane is said to have been delivered at *Madame la Brune's*. It was affirmed by Mr Andrew Stuart, that the name of *Fluratl* was written by Sir John Stewart's hand, with which he was well acquainted*; and then a strong argument of suspicion was drawn from Sir John's having taken a false name†. This book of *Michelle* having been carefully perused, and commented upon, was, by a warrant from the never-failing *Tournelle*, locked up; so that no person could have access to see it, but upon the plaintiffs application.

In the course of the proof, it was necessary to have evidence of what was contained in this book; the proper way of proving which, was no doubt by producing the book. But the plaintiffs agents knew well that it would not bear examination; and that all they had so pomposly boasted of this book, would appear to be downright fiction. They were therefore reduced to a great dilemma.

It becomes necessary to prove the contents of Michelle's book.

But

* Def. Pr. p. 1026.

† Append. to Def. Memor. p. 58.

A desperate
expedient re-
solved upon.

But they had now gone too far to retreat; and a desperate expedient was resolved upon. If it should pass, their cause was infallibly won; and if it should be discovered, they had already stood the storm which had been raised by the *Monitoire* and *Tournelle*; and they were pretty well hardened to the most severe accusations.

Duruisseau
is brought
forth to
swear with
regard to
Michelle's
book.

This desperate expedient was to bring forth a champion in swearing. They adduced one *Monsieur Duruisseau*, a gentleman with a great many founding titles after his name — *Maitre Pierre Charles Duruisseau, Conseiller du Roi, Commissaire Enqueteur et Examineur au Chatelet*.— This man had the custody of the book, and had examined it carefully; and he deliberately swears, That he examined *Michelle's* book (*en a constate l'e tat*), and that the article of Fluratl did not at all appear to him any way suspicious; so much the rather, that there were the *Visa* of the *Inspecteur* before and after the article in question. That he does not perfectly remember if the *Visa* which are put before and after this Article, are of the same month with the article; but remembers that there are upon the same leaf on which this article is wrote, and subsequent thereto some other articles wrote, of which the deponent does not recollect the number; neither does the deponent

deponent recollect, if the *Visa* of the *Inspecteur* does immediately follow the article of *Fluratl*, or is put after one or several other articles; but he is certain there is a *Visa* on the same page on which the article in question is wrote. That, so far as he can remember, the article which goes before that of *Fluratl* is of a date anterior to that of the 8th of July. That he asked *Michelle*, of whose hand-writing was the article of *Fluratl*? and that *Michelle* answered the deponent, that this article was neither of his writing, or that of his wife; and that he presumed that it was of the person who called himself *Fluratl*. — That *Michelle's livre du Commissaire* which is brought to him, commences subsequent to the 1750; and that he never saw *Michelle's livre du Commissaire* for the Year 1748. That the article of *Fluratl* appeared to him of a hand-writing distinct and different from all the articles both upon that and the next page: and that it was the best wrote of the articles on that or the next page.

After this, it appeared from a cloud of evidence, that Sir John and Lady Jane did not come to *Michelle's* till the 19th of July. *Michelle's* book was then no longer of importance; so it was produced in order to remove a suspicion thrown out on the part of the defendant, that the ar-

It appears from a cloud of evidence, that *Michelle's* book could not be true, and it is produced.

ticle *Fluratl* had been superinduced by the plaintiffs agents. This suspicion was indeed removed. But when the book was produced, it shewed why the plaintiffs agents had kept it locked up, and why they had brought forth a man to swear to its contents.

The shameful perjury of Duruifseau.

Upon examining the book, what a shameful figure does this *Duruifseau* make ! for it appears, that the article *Fluratl* is posterior to an article of the 12th July : that there was no *Visa* of the *Inspecteur*, as sworn to by *Duruifseau* : that there were several other articles on the same and preceding page, of the same hand-writing with that of *Fluratl*.—*Michelle* positively swears, he never told this man that the article was written by *Fluratl* himself, but always said it was written by the maid of the house. And though this man swears that he never saw *Michelle's livre du Commissaire* for the 1748, yet that book was afterwards recovered ; and it appears that this very *Duruifseau* had written in it a very few days before his examination.

Observations on this glaring fact.

From this glaring fact a few obvious reflections arise.

The

The plaintiffs French agents had seen this book, and examined it with care. Can they therefore deny that they were in the knowledge of *Duruisseau's* perjury?

The plaintiffs French agents having examined *Michelle's* book, must have been in the knowledge of *Duruisseau's* perjury.

It is an old maxim, *nemo gratis malus*, no body will be wicked for nothing. It is not then to be believed, that *Duruisseau* submitted to prostitute himself to this shameful perjury, without being rewarded. We are therefore well warranted to infer, that the plaintiffs French agents have been guilty of subornation of perjury.

It is therefore to be inferred, that the plaintiffs French agents have been guilty of subornation of perjury.

I ask then, what lengths would not these French agents go in the prosecution of their cause? And I desire to know, if any credit can be given to the proofs which they have reared up?

The plaintiffs French agents would go any length, and can bear no credit.

As this is only the Effence of the *Douglas* cause, I do not mention various perjuries, which appear in the plaintiffs proof, particularly that of *Mignon*. But it is certain and established law, that if a party shall be proved to have suborned even one witness to perjure himself, this vitiates and contaminates the whole of his proof; for no man can rely upon it.

If a party is proved to have suborned even one witness, it must contaminate the whole of his proof.

It

Noble saying of a great man.

It was nobly said by a great man, In vain are judges learned.—In vain are judges upright,—if the channels of justice are corrupted.

That the channels of justice have been corrupted in the Douglas cause, shewn from the proof.

That the channels of justice have been corrupted in the Douglas cause, I hope I have shewn beyond dispute, from an investigation of the proof.

This confirmed by the solemn oaths of two judges of the court of session.

Besides, this is confirmed by the high authority of two judges of the Court of Session. The Lords Gardenston and Monboddo, who were both in France as counsel for Mr Douglas, have both declared upon their great oaths, that the French proof is corrupted by the atrocious proceedings of the plaintiffs. These judges have done no less, since they have solemnly affirmed it in judgment. And as these two only, of the whole fifteen, had access to know the real truth in this important affair, we cannot give faith to the proof which has been brought against Mr Douglas, without doing a manifest injury to both these judges.

The conduct of the plaintiffs such that no jury could pronounce a verdict upon their evidence.

The unprecedented and most atrocious conduct of this cause, has been such, that the plaintiffs proof can bear no faith; and were their proof really as strong as they have vaunted it to be, I do maintain, that

no

no jury could pronounce a verdict upon such rotten evidence.

Therefore the Douglas cause may admit of a very short decision; nor is there any occasion for taking the trouble to examine the immense proofs which have been collected with regard to it; since, after all, no man can venture to decide upon these proofs.

The Douglas cause may be decided on conduct alone.

As, however, the plaintiffs have succeeded so far as to obtain a decree of the Court of Session by the casting vote of the Lord President, I shall examine the proof which they have brought against Mr Douglas.

Part III. Examination of the proof brought against Mr Douglas.

It consists of two general heads. 1st, Things absolutely exclusive of the defendant's being the son of Lady Jane Douglas; and, 2dly, Circumstances which look like presumptions against it.

It consists of two general heads.

Under the first head are two articles. 1st, That Lady Jane was not pregnant; and, 2dly, That upon the 10th day of July, she was in the house of Godefroi, an inn-keeper in Paris; and so consequently could not be delivered that day at the house of *Madame la Brune*.

First general head contains two articles absolutely conclusive against Mr Douglas, if true.

With

The age of Lady Jane now given up, though the very foundation of all this calumny.

With regard to the pregnancy, the objection arising from the age of Lady Jane is now given up ; though it is material to observe, that it was her age alone which originally furnished a pretence to her enemies to raise a calumny against her.

No proof that Lady Jane feigned pregnancy.

The proofs by which the plaintiffs have attempted to shew that Lady Jane simulated or feigned pregnancy, are the weakest that can possibly be imagined *, though one should have thought this would have been the strength of their cause.

Lady Jane's being pregnant, evident to multitudes.

But a fact which was open to the observation of multitudes was too stubborn even for Duke Hamilton's agents, with all their art ; they were therefore obliged to desist from attacking, where there was a fair field for investigation.

The plaintiffs artfully avoid the natural order of this cause, and attempt another *alibi*.

They betook themselves to what, from the very nature of the thing, must be private, and where there was room for the execution of their dark designs. Don't talk

* It will be shewn in the fourth part of this Essay, that a cloud of witnesses believed Lady Jane pregnant; whereas not a single evidence has been brought who even pretends to have had a suspicion that her appearance of pregnancy was false or affected.

talk of pregnancy, say they. It could not be, for there was no delivery. We can prove Lady Jane to have been on the 10th of July in the house of Godefroi, at the *Hôtel de Chaalons*; for she entered to that inn upon the 4th of July, and did not leave it till the 14th. And this we can prove by the books of that inn, and by the oaths of Godefroi and his wife.

Before examining the evidence of this *alibi* at Godefroi's, it is of consequence to observe, that the plaintiffs themselves, at the beginning of the cause, and for a long time afterwards, did not give the least credit to that evidence; for we have seen that they betook themselves to another *alibi* at Michelle's, totally contradictory to the *alibi* at Godefroi's; and therefore it is probable, that Godefroi and his wife did not say at first what they swear now.

The plaintiffs themselves at first gave no credit to the evidence of this *alibi*, and it is probable no such evidence did then exist.

It is also of consequence to state the strong evidence which the plaintiffs reared up for the *alibi* at Michelle's.

The first *alibi* stronger than this, tho' now allowed to be false.

Madame Michelle swore, that in the book of the *Inspecteur* deposited at the *Tournelle*, there is an article, which bears, that one *Monsieur Flurat*, a Scotsman, and his family, entered to the *hotel d' Anjou*, kept by her and her husband, on the 8th of

The first *alibi* proved by Madame Michelle.

E

July

July 1748. That this article was inserted by the hand of *Marie Malisset*, who was at that time servant in the said *Hotel*. That the said *Marie* wrote that article the same day that the gentleman entered, and that it was in presence of the deponent*, that all those who came to lodge at her house were inserted in the book of the *Inspecteur*, at least that it should be so; and that she does not believe that she failed in that; so much the rather, because it is the interest of those who keep houses not to omit to insert their lodgers in the book of the *Inspecteur*, which serves them for a rule to fix the epoch of the payment, which runs from the day when the apartments are hired †.

The first
alibi proved
by Monsieur
Michelle.

Monfieur Michelle, husband to the preceding witness, swore, that the same day that Sir John and Lady Jane arrived, the girl *Marie* asked the gentleman's name, and inserted it the same day in the book of the *Inspecteur* ‡.

The force of
these deposi-
tions.

From these depositions it was proved, that Sir John Stewart, under the designation of *Fluratl*, was entered in the book of the *Inspecteur* on the 8th of July, the very day

* Purf. Pr. p. 848.

† Purf. Pr. p. 856.

‡ Purf. Pr. p. 859.

day of his arrival; and that as this book fixed the time from which the room rent was payable, Sir John had paid rent at *Michelle's* from the 8th day of July downwards.

Madam Blainville, a person who lodged at *Michelle's* house, swore that Sir John and Lady Jane entered to *Michelle's* in the beginning of July, she does not exactly know the day †: and from the account this witness gives of the transactions of Sir John and Lady Jane, it would appear that they were about twenty days in the *hotel* before she left it, which was on the 29th of July, so that her deposition makes their entry correspond with the book of the *Inspecteur*, as sworn to by M. and Madame *Michelle*.

The first
alibi proved
by Madame
Blainville.

Breval, a periwig maker, son-in-law to *Michelle*, swore that Sir John and his company came to *Michelle's* in the month of July, and went away about the month of August, after having staid, as he believes, a little less than a month ‡.

The first
alibi proved
by Breval.

Madame Favre, employed by Sir John and Lady Jane as a nurse, swore that she kept the child at her own house two or three weeks,

The first
alibi proved
by Madame
Favre.

† *Purf. Pr.* p. 865.

‡ *Purf. Pr.* p. 875.

weeks, after having passed two or three nights in the *hotel d' Anjou* || ; so that the deposition of this woman also corresponded with the story of Sir John and Lady Jane having arrived at *Michelle's* upon the 8th of July; because it was an agreed point by all parties, that Sir John and Lady Jane left *Michelle's* about the second or third of August, and consequently could not have been there so long a time as was deposed to unless they had entered upon the 8th of July, according to the book of the *Inspecteur*.

The first
alibi com-
pleted by
Duruissetau.

To complete the system Duruissetau was brought forth, as a man, who being of better rank and character, and an officer of police, might gain more credit, and he swore in the strong and pointed manner which we have seen.

Michelle and
his wife have
sworn false-
ly.

What Michelle and his wife have sworn as to this article of *Fluratl* being written the day of the arrival of Sir John Stewart, and that the book of the *Inspecteur* was the rule for stating the rent of the rooms, is certainly falsely sworn ; because the article immediately preceding was dated the 12th of July, so that it is impossible that the article of *Fluratl* could be written till after the 12th.

If

If Sir John and his company did not arrive till after the 12th, then *Blainville*, *Breval*, and *Favre*, have also sworn falsely as to the time of Sir John's residence in the house.

Duruissetau has already been considered. He is indeed the capital figure in the abandoned group; his perjury is gross and notorious, and cannot be palliated: Duruissetau's perjury is of itself sufficient to destroy the plaintiffs plea, as it is manifest that he has been suborned. He was brought to swear solely to the contents of Michelle's book, with which the plaintiffs French agents were well acquainted; and as they might have produced the book itself, what reason can we possibly assign for their bringing Duruissetau to swear to its contents, except their intending that he should give false evidence concerning it, as he has accordingly done?

Therefore in considering the new *alibi* at Godefroi's, the falsity of the evidence with respect to the original *alibi* at Michelle's must be kept in view, and the evidence brought at the last hour of this odious process will be examined with a suspicious eye.

To

Duruissetau grossly perjured, and his perjury and subornation sufficient to destroy the plaintiffs plea.

In considering the new *alibi* we must keep in mind the falsity of the evidence as to the original *alibi*.

If

Two things
necessary to
make good
the *alibi* at
Godefroi's.

To make good the *alibi* at Godefroi's, two things are necessary. 1st, That Godefroi's books be regularly kept. 2dly, That Sir John Stewart and his company should be found in them.

Godefroi's
books con-
sidered.

As to the regularity of these books, upon a careful consideration of them, it appears, that they are on the contrary most irregular.

Godefroi's
books ex-
plained.

They are of two kinds ; a household book, in order to account with the guests, and a police book in order to show an exact list of the guests to the *Inspecteur* of police, who visits all the inns of Paris by publick authority.

The appa-
rent irregu-
larity of
Godefroi's
books.

It appears that many people are entered in the household book who are not entered in the police book : and on the other hand, that many are entered in the police book who are not entered in the household book ; so that notwithstanding of that accurate police which our neighbours would fondly display as one of those advantages which they enjoy above this free country, though it may impose upon superficial people, is indeed but the phantom of French vanity.

The irregu-
larity of
Godefroi's
books shewn
from the
oath of his
wife.

Nay it is acknowledged by Madame Godefroi, that persons who come to this house at night and go away in the morn-
ing,

ing, may happen not to be marked down in any way*. And she has positively deposed, that her house containing fifteen beds was generally full †: yet during the whole time that Lady Jane and Sir John are pretended to have been in this inn, and when Godefroi has positively sworn that they were lodged in the second story for want of room, there are only two persons lodged in this large inn, according to the books, and at no time during the years 1748 and 1749, can the plaintiffs shew from the books that the house was full.

It is therefore certain, that many guests must have lodged in Godofroi's without being marked in the book, since it cannot be presumed that so great a number happened all to come at night and go away in the morning, as Mr Godefroi's inn is not like an inn for passengers upon a great road, but is in the city of Paris, to which people resort to stay some time; and at least a third, if not one half of these people who put up at Godefroi's, stay with him during their residence at Paris.

Farther
proof of the
irregularity
of Gode-
froi's books.

Therefore

* Purf. Pr. p. 824.

† Purf. Pr. p. 833.

No dependence to be had upon Godefroi's books.

Therefore Godefroi's books are so imperfect and irregular, no dependence can be had upon them.

Godefroi's books, tho' regular, could be of no avail, unless Sir John Stewart is found in them.

But allowing Godefroi's books to be perfect and regular, they surely can be of no avail here, unless Sir John Stewart and Lady Jane Douglas be found in them.

The plaintiffs fondly attempt to apply a blank article to Sir John Stewart.

In what manner have the plaintiffs shewn this? A blank article is pointed out, which must be owned appears to apply to three persons, but how is this blank article to be applied to Sir John Stewart, Lady Jane Douglas, and Mrs Hewit?

The incredible oaths of Godefroi and his wife.

By the oaths of *Godefroi* and his wife, who swear it applies to these three persons, although it was fifteen years since they had been in their house, and they had never heard or even thought of them since, and although they could fill up no other blank article in the same manner.

The new evidence of the plaintiffs inconclusive.

So turns out the new evidence of the plaintiffs. If the birthright, and every thing that is valuable to a British subject is to be taken away by such evidence, the freedom which our forefathers have purchased to us with so much blood and treasure, is indeed but a slender inheritance.

The

The tale told by *Godefroi* is at first view exceedingly improbable. The price at his inn is three livres or half a crown English a-day for lodging, a bottle of wine and two meals, viz. dinner and supper; the price of the wine is twenty-four sous or one shilling English; the price of the room to those who only sleep and go away in the morning, is ten sous or five-pence English; therefore there remained only thirteen-pence English for two meals and attendance through the day. If any man can believe that Lady Jane Douglas and Sir John Stewart were served in the expensive city of Paris, and in their own apartments, at the miserable rate of thirteen-pence each a-day, it is what never happened before, nor will ever happen again, to any British person whatever, much less to people of fashion recommended by the chief magistrate of *Rheims*, as was the case with Sir John and Lady Jane; and it is in proof that when they were at *Michelle's*, where their rank was not known as at *Godefroi's*, they lived at more than double the expence* which it is pretended they did at *Godefroi's*.

Godefroi's
tale improb-
able at first
view.

Godefori's tale is farther improbable, because it represents Sir John and Lady Jane as following a different method from what

Farther im-
probability
Godefroi's
tale.

* *Purf. Pr-* p. 849. and p. 851.

what they used to do. Madame *Michelle* has sworn that they paid in ready money any thing that she may have furnished them †. It is therefore most reasonable to suppose that they paid all ready money at *Godefroi's*.

Godefroi's
oath *felo de*
se.

But luckily for Mr Douglas, *Godefroi's* oath is so contradictory that it is *felo de se*.

Godefroi's
book con-
tains only
those who
eat at the
ordinary.

For it is acknowledged, ‡ that Sir John and his family were entertained in their own apartments, and yet *Godefroi* and his wife swears that the article in this household book applies to them, although the household book is indisputably kept for those only who eat at the ordinary, which is plain from this, that every person whose name is there inserted is charged equally high.

Sir John &
his family
did not eat
at the ordi-
nary, so it is
impossible
they could
be in *Gode-
froi's* book.

As therefore Sir John and his family eat in their own apartments, it is impossible that an article in the ordinary book of the inn can be applied to them.

This is evi-
den to all
who have
travelled in
France.

This is evident to all who have had occasion to travel in France ; and indeed it is plain, that an inn-keeper can entertain a dozen or twenty people at one table at

a

† *Purf Pr. p. 852.*

‡ *Purf. Pr. p. 835.*

a much lower rate than he can entertain the same number of people in separate companies.

The Duke of Hamilton's agents, who in most instances appear so artful, have been a little inadvertent in this great article of *Godefroi*, whose character and that of his wife they have highly extolled.

D. Hamilton's agents, tho' artful, have been inadvertent in the article of *Godefroi*.

It would have been better for them to have had no more to do with books, of which, one should think, they got enough at *Michelle's*. It would have been better to have made *Godefroi* and his wife swear from memory alone, that Sir John and his company lodged with them on the 10th of July 1748, their astonishing memories would then have at least had a fair field; and they who are disposed to give credit to such memories, could not have been startled by obstacles which, to common understandings, must appear unsurmountable.

It would have been better for them to have had no more to do with books.



Having thus shewn that the books of *Godefroi*, with the oaths of him and his wife, are unworthy of credit, and as nothing of any weight has been proved to invalidate the strong evidence of Lady Jane's pregnancy, there is not in the huge volume of the plaintiff's proof any circumstance absolutely exclusive of the defendant's

It is undeniably shewn that there is no such proof against Mr Douglas as the law requires.

dant's being the son of Lady Jane Douglas, and of consequence no such proof as the law requires to deprive a subject of his birthright, in which he is established by the acknowledgment of his parents and common fame, and which Mr Douglas has had solemnly confirmed to him by the verdict of a respectable jury.

Second general head of the plaintiffs proof, circumstances like presumptions.

These to be considered not as material to the cause, but in order to wipe off the aspersions of malice.

The second general head of the plaintiffs proof consists of circumstances which look like presumptions against the defendant.

I enter upon the consideration of these, not that I think them material in judging of this great cause, but that I am anxious to wipe off those foul aspersions which malice has thrown upon the memories of Sir John Stewart and Lady Jane Douglas, and upon the honour of a young gentleman, whose spirit upon this trying occasion proves him to be of noble blood.

One circumstance only external.

Of these circumstances or presumptive proofs, there is one only which may be called external; all the rest arise from the conduct of Sir John and Lady Jane.

The external circumstance is the *enlevements*.

The single external circumstance is the *enlevements* of which we have heard so much: that is to say, that in the year 1748, when Sir John and Lady Jane produced a young

young child to the world, a young child was carried off from his parents; and that in the year 1749, when Sir John and Lady Jane brought a child sixteen months old to Rheims, a child about sixteen months old was carried off from his parents, and that both these *enlevements* happened in the city of Paris.

These *enlevements* have made much noise, and have been trumpeted by the plaintiffs as amazing discoveries; nay, in the memorial before the grave court of session, a foolish calculation has been inserted, to make shallow people imagine, that there was mathematical demonstration against the defendant.

These *enlevements* have been trumpeted abroad, and a foolish calculation has been made with regard to them.

But when these *enlevements* are attentively considered, they have nothing to do with the present cause.

These *enlevements* have nothing to do with this cause.

The first child which was that of one *Mignon*, a glass-grinder, who is alledged to be Mr Douglas, had blue eyes and a fair complexion *, whereas the child produced by Sir John and Lady Jane at Rheims, had black eyes and a dark complexion †. The colour of a child's eyes and complexion will not change from blue to black,

Mignon's child shewn to have nothing to do with this cause.

* Purf. Pr. p. 742. † Def. Pr. p. 603.

black, and from fair to dark, in travelling from Paris to Rheims.

Sanry's child
shewn to
have nothing
to do with
this cause.

The second child, which was that of one *Sanry*, a rope-dancer, could both walk and speak a little at the time it was carried off †: whereas *Sholto*, the second child, could neither walk nor speak at the time it was seen in London ‡, which was a good while after the time of the *enlevement* of *Sanry's* child. And it is further as clear, as writings and witnesses can make any fact in the world, that this child was carried off after *Sir John* had left France, and when he and *Lady Jane* and their two children were living in London ||.

All the other
circumstances,
the conduct of
Sir John and
Lady Jane.

All the other circumstances of presumption against the defendant, arise from the conduct of *Sir John* and *Lady Jane*.

Sir John and
Lady Jane
not now a-
live to ex-
plain their
conduct.

In considering these it is proper to observe, that we are considering the conduct of two persons who are not now alive to explain to us all the motives of it, nor perhaps, were they alive, would they be able to recollect all the motives at this great distance of time.

Yet

† *Purf. Pr.* p. 798.

‡ *Def. Pr.* p. 366.

|| *Purf. Pr.* p. 776, 779.

Yet several pieces of their conduct, which at first sight appears suspicious, may be accounted for very naturally.

Yet several of these circumstances accounted for very naturally.

Their concealment at Paris is one of the strongest of these circumstances: but let us remember their situation at that time. It has been solemnly deposed to that they were then very poor; we are therefore bound to believe they were so. The bill of 1979 livres which Sir John carried with him from Rheims, was nothing to a man of his character, who was so dissipated, so profuse, and I will say, so generous, that upon his receiving a sum of money, no body could say how much of it was engaged for debt, or, indeed, if half an hour after, a sixpence of it would be in his pocket.

Sir John and Lady Jane's concealment at Paris accounted for.

As I would not split hairs about every trifle, which has been the great art of the plaintiffs, I shall not insist that Sir John and Lady Jane were in real poverty; but surely it cannot be denied that they at the time pretended poverty; for they wrote to the Duke of Douglas in a very affecting strain upon that head, and they borrowed money from M. Andrieux, at Rheims, with whom they had then very little connection. That being the case, they were anxious to conceal from the Duke their having gone to Paris; for, said they, the Duke

Sir John and Lady Jane were anxious to conceal from the Duke of Douglas their being at Paris, and this fully explained.

Duke will be offended at our seeming extravagance, and will very readily observe, here are two people crying for want, and yet they have left Rheims and have taken a foolish journey to Paris. To send money to such people, would be like throwing it into a sieve.

Therefore
they used so
many me-
thods of con-
cealment.

Sir John and Lady Jane were thus in a dilemma. She could give no good reason for having left Rheims, as there was very able assistance to be had there for women with child. She had run off in a pannick, as women in that situation do often take most unaccountable pannicks. She and her husband therefore thought they had nothing for it but if possible to keep their journey from the knowledge of the Duke, therefore it was that they lived in a private manner at Paris: therefore it was that they dated their letters at Rheims; therefore it was that Sir John, though very fond of his countrymen, prevailed with himself to refrain at this time from seeing them: And so apprehensive were he and Lady Jane that their being at Paris should get air, that they did not trust even Johnston, a cousin of Mrs Hewit's, with the secret.

Other

Other pieces of their conduct will admit of a double interpretation, such as their leaving their maid-servants at Rheims. It may be said that they left their maids because they did not choose to make them privy to the shameful plot which they were carrying on: but on the other hand, upon the supposition of the imposture, would they not have taken these maids as accomplices of the fraud? If they were accomplices, as the plaintiffs themselves positively affirm with respect to Isabel Walker, they certainly would not leave them at Rheims, when they could be of so much use to them at Paris, were it only to have served as witnesses to the supposed birth. If they were not accomplices, then they were both unsuspicious testimonies in behalf of the defendant; and if their testimony be true, there is an end of the plaintiffs plea.

So that this circumstance of leaving the maids, is the most unlucky that the plaintiffs could possibly have selected; nor can I really see how it is possible for them to extricate themselves from the difficulties in which it places them.

The maids being left at Rheims, strongly against the plaintiffs.

G

It

Leaving the
maids dif-
ficult to be
explained.

It must be owned that we cannot account for these maids being left; but one undeniable piece of evidence in this cause may serve to make us pay little regard to such circumstances.

Leaving the
man-servant
a circumf-
tance much
more suspici-
ous.

When Sir John and Lady Jane came to Liege, in their way to Paris, they left there their man-servant, who was a Frenchman. This circumstance the plaintiffs insisted was strongly suspicious, because they were leaving this Frenchman behind them at the very time when he could be of most use to them.

Tho' Sir John
could give no
account of
this, it is now
by good
providence
clearly ex-
plained.

When Sir John Stewart was asked what was the reason of their leaving this man-servant, he could give no account of it whatever; and we should now have heard it urged as an undeniable circumstance of guilt, had not the wife of this man by good providence been alive, and told that her husband was pressed by Sir John and Lady Jane to go along with them, and that the reason why he did not go to France, was his having been a deserter from that service*.

Therefore
all the other
circumstances
might have
been explain-
ed had they
been taken
in time.

Not one of all the circumstances is so strong as this, which has been so happily cleared up, and therefore we are to infer, that had they all been enquired into at an

* Def. Pr. p. 489.

an earlier period, they would all have been as plain to us as this now is.

Much has been said of contradictory accounts which have been given by Sir John, Lady Jane, and Mrs Hewit.

Alledged contradictory accounts, by Sir John, Lady Jane, and Mrs Hewit.

In the first place, this is not true as to any material circumstance except in one instance: When Sir John was asked the name of the person in whose house Lady Jane was brought to bed, which he did not recollect at the time, and mentioned Michelle's instead of La Brune's, which, however, he corrected in a very short time after.

This not true as to any material circumstance, but one mistake which was soon corrected.

Their varying in trifles is rather a strong argument against an imposture being committed; for, if that had been the case, a tale would have been concerted and uniformly told: To forget circumstances, or remember them in various ways, is what we commonly observe in the course of human life; and I can appeal to any two of my readers, who have been present at the same transactions, and desire them to try, if after some years have elapsed, they do not vary in the remembrance of many particulars. One memory is more distinct and comprehensive than another, and some people are apt to confound the ideas suggested by fancy, with those preserved

Their varying in trifles a strong argument against an imposture.

by memory, as was the case with Sir John Stewart, and is the case with most people of lively imaginations.

Sir John,
Lady Jane,
and Mrs
Hewit, were
all along
consistent in
the great
lines of their
story.

Objection
from what
Lady Jane is
said to have
told to the
Countess of
Stair.

It is, however, certain, that Sir John, Lady Jane, and Mrs Hewit, did all along give the great lines of their story with perfect consistency.

One objection has been made to this. It has been said, that Lady Jane told a very different tale to the Countess of Stair, to whom she said, that she was delivered immediately on her coming to Paris.

Answer 1.
This alledg-
ed by only
a single wit-
ness.

To this it is answered, 1st, That it is only proved by the oath of the honourable Mrs Primrose, who swears that she heard her mother, the Countess of Stair, say what she heard from Lady Jane; therefore, this is at best but the hear-say of a hear-say, which is not legal evidence.

Answer 2.
This witness
certainly in
a mistake,
shewn from
the story it-
self.

But 2dly, It is certain, that from inadvertency, from dullness of hearing, or from a fallacious memory, people who are equally honest, will give very different accounts of what they heard in conversation; and it is evident at first view, that one of these ladies, either the Countess of Stair, or Mrs Primrose, must have been in a mistake with regard to Lady Jane's saying that she was delivered immediately upon

upon her arrival in Paris, which was upon the 4th of July, because we find the 10th of July marked in her pocket-book as the day of her delivery ; and upon every occasion she gave the same account of it. Lady Jane is allowed by all parties to have been a woman of sense ; it is not therefore credible that she would give Lady Stair alone a different account, which numbers from her own information could contradict.

Besides, I am assured that there are several persons of good character, still alive, who heard the Countess of Stair tell Mrs Primrose that she was in a mistake in supposing that this account was given her by Lady Jane, for that it was told to the countess by some other person.

Answer 3.
Several persons of good character can depose that this witness is in a mistake.

A great clamour has been raised about certain letters from *Pierre la Marre*, which it is said were forged by Sir John Stewart.

A great clamour about the letters of *Pierre la Marre* as forgeries.

In the first place, I deny that there was here, properly speaking, a forgery. The essence of a forged deed consists in the using it in evidence. Whereas, these letters never were so used by Sir John Stewart.

There was here no forgery. as these letters were never used by Sir John in evidence.

It

The existence
of such let-
ters clearly
proved.

It is proved, that there really did exist such letters long before the time at which the plaintiffs alledge that this forgery was committed, as appears from the private pocket-book of Lady Jane Douglas, and from the oaths of several witnesses.

Internal evi-
dence, that
the letters
now charg-
ed as forge-
ries could
not be so.

From a critical analysis of these letters, it appears, that though they contain some phrases of the purest French, they are, upon the whole, full of Anglicisms, and miserably spelt ; so that it is impossible to suppose that Sir John could ever have thought of palming them upon a court of justice as French letters.

Sir John's
behaviour
before the
court of ses-
sion a con-
firmation
that there
was here no
forgery.

Several probable conjectures have been made, both by counsel and judges, with regard to these letters, as may be seen in the law papers and speeches. That Sir John never intended a forgery, must be evident to every impartial person ; because, upon his examination before the court of session, when he was asked with regard to these letters, he looked at them in his careless manner, and answered with that easy and unconcerned air which is the surest sign of conscious innocence.

Supposing
the worst,
how far will
this go ?

But should we suppose the worst, and allow that Sir John did forge these letters, how far will this go ? Truth indeed does not require the aid of falsehood ; and it
is

is very foolish, nay very criminal, to call in falsehood in support of truth ; yet many instances of this have occurred, like the *piæ fraudes*, which have been practised in support of religion.

At any rate, the plaintiffs attack this circumstance with a very bad grace, considering what their conduct has been ; for if this were a forgery, it would surely be well balanced by the attempt made to forge the contents of *Michelle's* book by the false oath of *Duruisseau*.

If there were really a forgery, it is well balanced by *Duruisseau*.

Allowing the plaintiffs unworthy supposition to be true, it can go no farther than to shew, that Sir John Stewart's anxiety to preserve his son made him take a very improper step.

A forgery could only shew, that Sir John's anxiety made him take an improper step.

The last circumstance of conduct which has been vehemently urged in this cause, is the neglect shewn by Sir John and Lady Jane of the reports which were raised of their having been guilty of imposing upon the world supposititious children, and also their neglect of bringing undeniable evidence of the truth of the birth, which, it is said, they might easily have done, had the birth been real.

Sir John & Lady Jane's neglect of disproving the calumnies against them.

In

These calumnies raised in the most shameful manner.

In answer to this, let it be considered, that these reports were raised in the most shameful and malicious manner.

Sir John and Lady Jane disdained these calumnies.

Sir John Stewart and Lady Jane Douglas were high-minded people, and disdained such calumnies, as they had a contempt for the authors of them.

A striking proof of this.

A strong proof of this, and which strikes one exceedingly, is, that in the private correspondence of Sir John and Lady Jane, which was never intended for the public view, but has been most accidentally recovered, they never once mention these injurious suspicions, which shews how little they were really affected by them; for, upon truly generous minds, undeserved calumnies will make no impression.

Lady Jane went to Douglas-castle to ask what proof would be necessary.

Besides, Lady Jane had gone to Douglas-castle with intention to ask her brother the Duke, what proof would satisfy him that the children, which she had with her, were really hers; but her relentless enemies surrounded the Duke, and prevented her having access to him.

Lady Jane saw that it was in vain to bring any proof.

This being the case, to what purpose bring proofs? As Douglas-castle was beset with dragons, these proofs could have been

been of no service to her. Had she produced letters both from *Pierre la Marre* and *Madame la Brune*, it would have been said that they were forged. Nay, had *Pierre la Marre* and *Madame la Brune* themselves been brought to Douglas-castle, to swear to the truth of the birth, it would have been said that they were accomplices, and perjuring themselves to support a falsehood; for we have lived to see such accusations laid against people infinitely less suspicious.

What then was Lady Jane to do? People of undoubted credit and character had attested her pregnancy, and Mrs Hewit was then alive, and affirmed she was present at the delivery. If they were not to be believed, would obscure people be believed with regard to her delivery? This demonstrated.

But my Lady Jane did more. She acted with the propriety of one of her high rank, and took the advice of King's counsel. She consulted my Lord Prestongrange, then his Majesty's advocate for Scotland, in whose judgment and honour she had a perfect confidence, "assuring him, that God knew her innocence, and that the children were hers: that she did not doubt but that the man-midwife was still alive; and that if his Lordship thought it necessary, she would bring
H
any Lady Jane consults the Advocate for Scotland.

‘ any proof that should be thought proper*.”

His Majesty's
Advocate as-
sures her,
that no
proof was
necessary.

His Lordship, with a spirit worthy of himself, and of the person whom he was addressing, answered her Ladyship, “ That she needed give herself no uneasiness about the matter; for that as she and Mr Stewart acknowledged these children, there was no further proof necessary; for it behoved those who challenged the birth to prove that they were not her Ladyship's children †.”

The same
advice given
by a judge
of the Court
of Session.

The same advice was afterwards given to the Duchess of Douglas by an honourable judge, now deceased, the late Lord Shewalton, uncle to the present Earl of Glasgow ‡.

Sir John and
Lady Jane
had no occa-
sion whate-
ver to bring
proofs.

We are not therefore to wonder that Sir John and Lady Jane neglected to bring all the proof they might have done with regard to the birth of their children. The only view they could have in doing so, was to satisfy the Duke of Douglas, which they had the mortification to see was impossible. They had the opinion of counsel learned in the law, that their children were already in possession of a proof sufficient

* Def. Pr. p. 370.

† Ibid.

‡ Purf. Pr. p. 325.

cient to entitle them to all the privileges of British subjects; and as they themselves knew the truth, so all those whose good opinion they were anxious to preserve, were firmly persuaded of their honour, and of the legitimacy of their children.

If, after all, it shall be thought that Sir John and Lady Jane did not here act the most prudent part, I answer, that prudence was none of their virtues: but I will go farther. and say, that prudence is a very bad test of the credibility of the actions of men. If no conduct is believed but what is consistent with the rules of prudence, the history of human life may be comprehended within very narrow bounds.

At any rate, nothing more can possibly be inferred, but that they had such an imprudence as is usual among mankind.

I need not go far for an instance of this. The tutors of the Duke of Hamilton and his brother are mostly persons of great respect, as well as knowledge of business. From such tutors one would expect very accurate proceedings, and that they would do the very best and most prudent things for the interest of their pupils.

The imprudence of human conduct exemplified in a wonderful manner.

But what has been their conduct in this process? Why, after the Court of Session had found that the Duke of Hamilton had no right to the estate of Douglas, but that it must descend to the heirs of line, these

D. Hamilton's tutors begin this process, when it is probable his Grace shall never get a shilling in return.

tutors, in place of appealing that judgment, so as to have their pupils interest finally ascertained, have been pleased to carry on a tedious law-suit against Mr Douglas, and have laid out immense sums of Duke Hamilton's money, when in all probability, his Grace shall never get a shilling in return, and his brother, Lord Douglas, shall be cut out of a chance which he had of succeeding to the Douglas estate.

D. Hamilton's tutors authorize the *Tournelle* process and *Monitoire*.

Therefore the conduct even of Duke Hamilton's tutors not the most prudent.

Every unprejudiced person must be convinced that the plaintiffs have a very bad cause. What the plaintiffs would have us believe.

These tutors also authorized the *Tournelle* process and *Monitoire*, which of themselves might have been sufficient to destroy their cause before a British jury.

We may therefore surely be allowed to say, that the conduct of these tutors has not been the most prudent. This will be allowed to be an *argumentum ad hominem* to the plaintiffs.

I flatter myself, that every unprejudiced person is now convinced how very bad a cause these plaintiffs have been disguising, with all the art that money can purchase.

Let us shortly consider what they would have us believe.

It is this, That the sister of the Duke of Douglas, a Lady of distinguished good character, who, it is certain, was then in the way of having children herself, should all at once have become so abandoned as to enter into a plot to perpetrate the most villainous imposition upon the illustrious house from whence she sprung.

That Lady Jane Douglas should all at once become totally abandoned.

That having entered into this plot, she and her husband went to Paris, and there run the risk of buying a subject of the French king, when they knew to what dreadful punishments their doing so subjected them.

That Lady Jane and her husband should buy a subject of the French king, at the risk of dreadful punishments.

When they go about this, they take a recommendation from the chief magistrate of Rheims to the inn at Paris, where all the people from Rheims put up.

That they should do this in the most dangerous manner.

Instead of flying the kingdom after they had perpetrated so dangerous a crime, they stay above a month in Paris and the neighbourhood, and they return to Rheims, and remain there sixteen months; during all which time, they were liable to detection, to a capital punishment, to torture, and to absolute infamy and disgrace.

That they should deliberately remain sixteen months exposed to detection, and all its dismal consequences.

They

It

That they
should give
out that
they had
two child-
ren, when
they had
only one.

They give it out that they had twins, when one child was sufficient for their purpose. And they give out that the youngest twin was a weakly delicate child, though they had then only one child in their possession.

That they
should again
run the same
desperate
risk, and
when they
were in the
greatest po-
verty, should
bring upon
themselves
the burden
of two
children.

The next year they go back again to Paris; they again run the same desperate risk; and pick up a second child. And when they were in such poverty that for many months they were obliged to burn and sell the lace off their cloaths, in order to procure themselves subsistence; at this very time they chose to take the burden of no less than two children belonging to other people.

That this se-
cond child,
picked up by
chance,
should an-
swer exactly
to the de-
scription gi-
ven sixteen
months be-
fore he was
seen, and
that he
should be
the very
picture of
Lady Jane.

What was, if possible, still more wonder-ful, this second weakly child, which they picked up by mere chance, answered ex-actly to the description which they had given of Sholto, then youngest son, for sixteen months before, and was the very picture of Lady Jane; so that not a per-son who ever saw them together, but was struck with their remarkable likeness, as is proved by the oath of the Right Ho-nourable Mr Stewart M'Kenzie, Lord Privy Seal for Scotland, * as well as the oaths of many other respectable witnesses. Such

Such being the plaintiffs proof in the Douglas cause, I desire every impartial man in these kingdoms to say, if he can consistently with reason, not to mention charity, take upon him to pronounce a sentence, finding Sir John Stewart, and Lady Jane Douglas guilty of an infamous imposition; and declaring Archibald Douglas Esquire to be the son of a French glaís-grinder.

Such being the plaintiffs proof, what can be the result of it?

So strong is the cause of Douglas, when we have considered only his filiation as established by the acknowledgment of his parents, and common fame, opposed to those vague and inconclusive proofs which the plaintiffs, with all their oppressive proceedings, have been able to bring against him.

So strong is the cause of Douglas, even without his additional proof.

But what shall we say, if, besides all this, Mr Douglas can produce a chain of positive evidence, amazingly strong, at this distance of time? He has done so. Though his parents did not make enquiries at Paris, he has; and these enquiries have produced a proof both direct and circumstantial in his favour.

Part IV.
But Mr Douglas has brought a positive proof both direct and circumstantial.

The direct proof is that of the actual birth, and of what must have necessarily preceded and followed it; viz. the pregnancy,

The direct proof brought by Mr Douglas.

nancy, and the reconvalence or recovery.

Sir John Stewart and Mrs Hewit swear to the actual delivery. With regard to the actual delivery, there are two witnesses who swear to it ; viz. Sir John Stewart, and Mrs Hewit.

Objection to Sir John Stewart. It may be objected to Sir John, that his near connection to the defendant renders him a suspicious witness.

Answer. To this it is answered, that he is a witness called by the plaintiffs themselves, and therefore they cannot now pretend to reject his evidence.

Objection to Mrs Hewit. It may be objected to Mrs Hewit, that she is also a suspicious witness, as being an attendant or domestic to Lady Jane Douglas.

Answer. If this objection were to hold good, the defendant, and all who shall ever be in his situation, must be deprived of almost the only witnesses who can be expected to be present at a fact of this kind.

Objection to both Sir and Mrs Hewit, It may be objected to both Sir John and Mrs Hewit, that their evidence ought not to be received, because they are accomplices in the crime charged in the present action.

To

To this it is answered, that not only in law and equity, but in the universal judgment of mankind, innocence is always presumed ; nor are witnesses to be rejected, as accomplices of a crime, when proof is required, to shew that a crime has been committed. If the objection were good against two witnesses, it might be good against any number against whom a charge may be brought, in the same manner as has been brought against Sir John, and Mrs Hewit ; so that law, instead of being our guardian, would sternly arm herself against her subjects, and render it impossible for any birth ever to be proved. But law is not so.

The answer to this, of serious and universal importance.

Therefore, to every impartial man in these kingdoms, there are two positive witnesses to the actual delivery of Lady Jane Douglas.

Therefore two positive witnesses to the actual delivery.

The pregnancy of Lady Jane is proved by Mrs Hepburn of Keith *, Mrs Glas †, and a variety of other witnesses, who solemnly depose to circumstances ; all which together, could not exist without a real pregnancy. At least, if they do ever so exist, it is not above once in a million of times. Bountiful nature does not

Lady Jane's pregnancy strongly proved.

* Def. Pr. p. 9.

† Def. Pr. p. 18. Purf. Pr. p. 50.

not leave us in such a state of uncertainty, with regard to what interests us so much.

Corrobor-
ation of the
proof of
Lady Jane's
pregnancy. This proof of Lady Jane's pregnancy, becomes exceedingly strong, when it is clearly proved, that after the time at which she gave out that she was delivered, she had all the appearances of a woman newly recovered from childbed.

The positive
proof of
Lady Jane's
delivery
confirmed by
different ap-
pearances. Let us lay together the different appearances of Lady Jane, before and after the period at which her delivery is said to have happened; and then judge if any doubt can be entertained of her delivery.

These ap-
pearances
could not
possibly be
assumed. It is material to observe, that these appearances could not possibly be assumed by dress, or by any other art; because I am now to insist only upon such as must be allowed to have been the real appearances of her person.

Lady Jane's
appearance
before the
time when
she is said to
have been
delivered. Before the period at which she is said to have been delivered, she appeared with very large breasts, and a countenance such as she usually had when in health†.

Lady Jane's
appearance
after the
time she is
said to have
been deli-
vered. After the period at which she is said to have been delivered, she appeared with very flat breasts, and a countenance thin, pale, and languid||.

Now

† Def. Pr. p. 9. ib. p. 18.

|| Purf. Pr. p. 868. ib. p. 876.

Now I desire to know of every person of experience, and of every sensible physician, if Lady Jane could possibly have had these different appearances without some intermediate illness?

These different appearances could not be without some intermediate illness.

If Lady Jane had an intermediate illness, why shall we doubt that it was child-birth, as solemnly deposed by two witnesses?

This intermediate illness child-birth,

The circumstantial proof, in confirmation of the direct proof now stated, is exceedingly strong, unless we can suppose a number of witnesses, having no knowledge or acquaintance one with another, all combining different facts and circumstances, so as to make one connected story.

The circumstantial proof brought by Mr Douglas.

In the first place, Monsieur Menager, surgeon to a prince of the blood, at Paris, who is proved by other witnesses to have been the most intimate acquaintance of Pierre la Marre, deposes, that La Marre told him, that he had delivered a foreign Lady of an advanced age, who came from Rheims; that it was her first birth; that he had delivered her of twins, and of male twins, one of which was a sickly delicate child, which on that account was left with La Marre, and was by him given out to nurse in the neighbourhood of

Monsieur Menager's circumstantial proof.

Paris§. All these circumstances, so directly correspond with the defendant's story, that it is impossible they can be true, and his story false.

The plaintiffs
obliged to

resort to

their usual

desperate ar-

gument that

Monfieur

Menager is

perjured.

Monfieur

Menager ac-

cidentally

discovered by

those acting

for the de-

fendant.

Monfieur

Menager is a

man of good

ftation and

character.

The gentle-

men employ-

ed for Mr

Douglas are

liable to no

fufpicion.

The plaintiffs therefore are obliged to have recourse to their usual desperate argument of representing Monfieur Menager as a man grofly perjured.

That this matter may be fairly tried, it must be confidered, that Monfieur Menager was accidentally difcovered by those employed by the defendant. It was from the prince of *Turenne* himfelf, that the information was received¶.

Monfieur Menager is a man of good ftation and character, fo does not deferve to be fufpected without good reafon.

When Monfieur Menager was difcovered, the affairs of Mr Douglas were entirely in the hands of gentlemen fent from Britain. There were no French *Procureurs*, whose wicked proceedings we have feen. And the behaviour of the gentlemen fent from Britain, on the part of Mr Douglas, has been fuch, that they furely have not fubjected themfelves to any injurious imputation.

Therefore

§ Def. Pr. p. 526. *et feq.*

¶ Def. Pr. p. 541.

Therefore it follows, that *Monsieur Menager* must by every impartial person be held as a good witness. Monsieur Menager a good witness.

The only objection therefore to *Monsieur Menager's* evidence, is, that he is single. Objection to Monsieur Menager.

Were it really so, it were hard from thence to infer that he is perjured, or that a single witness in a circumstantial proof is not to be believed. Answer.

But he is not a single witness; for *M. Gilles* must be held as a concurring witness to the same facts; for I hold him to the unsuspicious testimony that he gave in presence of *Monsieur Moreau*, which he could have no temptation to give, so that we have in reality two witnesses to these striking facts. Monsieur Menager is supported by Mr Gilles.

But *Monsieur Menager* is not supported by *Gilles* alone; for there are other witnesses who depose to a variety of circumstances, all of which wonderfully concur in supporting the story of *Monsieur Menager*, and of consequence supporting the story of the defendant. Monsieur Menager is supported by other witnesses.

These other witnesses are a woman of the name of *Garnier*, a nurse in the neighbourhood of *Paris*, the husband of *this* Witnesses who support Monsieur Menager.

this *Garnier*, and *Madame Boucault*, her neighbour,

Depositions
of nurse Gar-
nier in sup-
port of Mon-
sieur Men-
ager.

Garnier * has deposed that in summer 1748, while she was living on the road to *Menilmontain*, she got from this very *Pierre la Marre*, the friend of *Menager*, a weak delicate child who was a male-twin, and his brother also a male; that he was a foreign child, and was visited by foreign gentlemen, one of whom expressed such a concern about him that she supposed he was the father, and at last at the end of eighteen months, or thereabouts, this child was taken from her, not to be given to another nurse at Paris, but to be carried further off. In short the account given of this child agrees so exactly to *Sholto*, that it is impossible to suppose it could be any other.

The plain-
tiffs here a-
gain reduced
to their des-
perate expe-
dient of an
accusation.

Therefore the plaintiffs are here again reduced to the desperate expedient of supposing this woman to be perjured and corrupted, though, like *Menager*, she was accidentally discovered by those acting for Mr Douglas, never was tampered with by a *Danjou*, or any other French agent, and in short was never in the hands of any body but the gentlemen sent from Britain.

But

* Def. Pr. p. 533. et seq.

But it will not answer the plaintiffs purpose to say that this poor woman is perjured; they must further add to their black list her husband *, and also her neighbour Madame Boucault †, for she concurs with her in every particular, and some things she has remembered more accurately than Garnier; for she has said, that the child was kept only sixteen months, which was just the precise time; and she has described one of the stranger gentlemen that came to see the child in such a way, that there is little reason to doubt but that it must have been Sir John Stewart.

Confirmati-
on of the evi-
dence of Me-
nager and
Garnier by
other unsus-
picious wit-
nesses..

Now the fact being thus established, beyond all possibility of doubt, that there was a weak twin foreign child given out to nurse near Menilmontain by Pierre la Marre, in the year 1748, and that the story told by Lady Jane and Sir John, and the story told by Monsieur Menager, exactly tally in this story, it appears that there is here a chain of circumstantial evidence which no art or force of argument can break; nay, were that link of the chain which has been formed by Menager, or that link which is formed by Garnier, and the evidences concurring with her, to be

The won-
derful stren-
gth of the
defendant's
circumstan-
tial evidence
at this dis-
tance of
time,

* Def. Pr. p. 558.

† Def. Pr. p. 559. et seq.

be taken separately, and compared with the story told by Sir John and Lady Jane, there would be in either case a proof wonderfully strong at this distance of time.

It is impossible that so many circumstances should concur, and yet that the story of the defendant should not be true? Is it possible to believe that all these circumstances should concur, and yet that the story of the defendant should not be true?

It has been objected by the plaintiffs, that this *Pierre La Marre*, cannot be the same person mentioned by Sir John Stew-nager's La Marre is not the same with Sir John's La Marre. art, in his declaration before the Court of Session, because in several particulars he is proved to be very different from Sir John's *La Marre*.

The alledged differences shewn to be of small importance. In answer to this, it must be observed, that the differences insisted on, are in reality of little importance. One of them is, that Sir John's *accoucheur* was called only *Pierre la Marre*, whereas *Monsieur Menager's* friend was called *Louis Pierre De la Marre*. This is no more but that *M. La Marre*, from an affectation of gentility very common in France, chose to put *De* before his surname, which however he usually dropt in familiar intercourse, or in subscribing letters; for his contract of marriage produced by the plaintiffs being a formal deed, is no proof of

of the manner in which he signed his letters. His being called *Louis* as well as *Pierre*, must appear a very frivolous objection; for we all know that people who have two names in this manner, often sink one of them. It has been said too, that Sir John's *La Marre* was a *Walloon*, whereas *Menager's La Marre* is a Frenchman. But the answer is, that *Menager's La Marre* was born at *Montreuil sur mer*, upon the borders of the *Walloon* country, and thence was readily taken for a *Walloon*. In short the only variation of any consequence is, that Sir John has said that he fell acquainted with *La Marre* at so early a period that it could not be the friend of *Menager*.

In answer to this, let the candid and unprejudiced consider that Sir John Stewart was all his life long a man of vivacity and dissipation, and was particularly remarkable for a strange incorrect memory, as is proved by the oath of that worthy gentleman Mr Hepburn of Keith, who knew him intimately, and who swears to most extraordinary instances of his forgetfulness when it cannot possibly be said that he had any design; and therefore there is no wonder that a man of this singular frame of mind, who had been abroad at several different times, should be in a mistake in fancying a thing to

Sir John
Stewart's
declaration
candidly
considered.

K

have

have happened much earlier than it really did, especially when it is considered, that when Sir John was obliged to make this judicial declaration he was very old, being in his 74th year, and in such an infirm state of health, that he was brought into court from his bed.

Evidence
which speaks
home to our
hearts.

It remains to consider another kind of evidence in behalf of Mr Douglas ; and I am persuaded that this evidence will speak home to the hearts of the impartial people of these kingdoms.

Sir John and
Lady Jane
shewed a
constant af-
fection and
concern for
their child-
ren.

Sir John and Lady Jane, during the whole course of their lives, shewed the greatest affection and concern for these children, and this in no ostentatious manner ; for the most striking instances of it were accidentally observed.

A very material question was put by a judge of the Court of Session to Isabel Walker, one of Lady Jane's maids, " Did ' you ever observe Sir John or Lady Jane ' repine at the expence of these children, ' or betray any sign as if they were ' not their own ? " " Oh ! no," replied the witness, with an air which convinced every unprejudiced person how much she spoke from the heart. She added, that they at all times shewed an uniform fondness for their children, even when

when they themselves were in the greatest poverty and distress.

But if we should even suppose them to be so consummately cool and artful as to persist for a series of years in the deepest dissimulation, and that too before a maid who was constantly with them, and saw them in their most unguarded moments, what shall we say when we read these letters, now accidentally recovered, and never intended for the view of any other person; these letters, written while Sir John was in prison, and while Lady Jane was in straits and in sickness? Is it possible to suppose, that these letters, written in so noble a stile of piety, and expressing such warm sentiments of tenderness and love for their children; is it possible to suppose, that these letters were also dictated by dissimulation?

The affecting letters between Sir John and Lady Jane an invincible proof to every humane mind.

I entreat my readers may peruse these moving letters, and I know how their honest breasts will feel for much injured innocence. In reading that correspondence, it is just as if two alledged confederates in a crime were overheard talking together in the very next room; and when we hear them breathing such strains of truth, shall we not believe them? Nay, it is as if we saw into the very bottom of

The letters as strong as if Sir John and Lady Jane had been overheard talking together in their most private moments.

their hearts ; and what do we find there but the sincerest parental affection ?

The dying declarations of Sir John, Lady Jane, and Mrs Hewit. Lastly, we have Lady Jane Douglas, Sir John Stewart, and Mrs Hewit, who have all three gone to death, solemnly attesting the truth of the defendant's birth.

Dying declarations are stronger than circumstantial proofs. I do maintain, that these dying declarations alone, would be sufficient to counterbalance all the circumstantial proof which has been brought by the plaintiffs, allowing it all to bear faith in judgment. One witness upon the brink of eternity positively attesting a fact, must, to every humane mind, be of more avail, than many circumstances which seemingly tend to prove the contrary. In the present case, such circumstances are opposed by no less than three witnesses on the brink of eternity.

Conclusion, warmly addressed to the impartial people of these kingdoms. Thus have I pleaded the cause of Mr Douglas to the best of my abilities. I have examined the proof brought against him ; and I hope I have shewn it to be totally inconclusive, while I have also shewn an amazing weight of evidence in his favour, considering the distance of time. Providence indeed has preserved more proofs than could have been expected, in order to defeat the designs of unjust revenge.
But

But I desire and call upon my readers, to remember, that this cause might be decided on conduct alone. Perjury, and subornation of perjury, must be considered as interwoven with every page of the plaintiffs French proofs ; otherwise I must boldly say, that Mr Douglas has not a fair trial. This alarming cause is now far advanced. The feelings of indignation and of humanity are equally roused. I leave then the DOUGLAS CAUSE with THE IMPARTIAL PEOPLE OF THESE KINGDOMS.

T H E E N D.



